

# UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS  
ENACTED DURING THE SECOND SESSION OF THE  
ONE HUNDRED FOURTH CONGRESS  
OF THE UNITED STATES OF AMERICA

1996

AND

PROCLAMATIONS

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VOLUME 110

IN SIX PARTS

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PART 3

PUBLIC LAWS 104-188 THROUGH 104-201



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Public Law 104-188  
104th Congress

An Act

To provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act.

Aug. 20, 1996

[H.R. 3448]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Small Business Job Protection Act of 1996”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

**TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS**

Sec. 1101. Amendment of 1986 Code.

Sec. 1102. Underpayments of estimated tax.

**Subtitle A—Expensing; Etc.**

Sec. 1111. Increase in expense treatment for small businesses.

Sec. 1112. Treatment of employee tips.

Sec. 1113. Treatment of storage of product samples.

Sec. 1114. Treatment of certain charitable risk pools.

Sec. 1115. Treatment of dues paid to agricultural or horticultural organizations.

Sec. 1116. Clarification of employment tax status of certain fishermen.

Sec. 1117. Modifications of tax-exempt bond rules for first-time farmers.

Sec. 1118. Newspaper distributors treated as direct sellers.

Sec. 1119. Application of involuntary conversion rules to presidentially declared disasters.

Sec. 1120. Class life for gas station convenience stores and similar structures.

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**Subtitle B—Extension of Certain Expiring Provisions**

Sec. 1201. Work opportunity tax credit.

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Sec. 1204. Research credit.

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Sec. 1207. Extension of binding contract date for biomass and coal facilities.

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**Subtitle C—Provisions Relating to S Corporations**

Sec. 1301. S corporations permitted to have 75 shareholders.

Sec. 1302. Electing small business trusts.

Small Business  
Job Protection  
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26 USC 1 note.

- Sec. 1303. Expansion of post-death qualification for certain trusts.
- Sec. 1304. Financial institutions permitted to hold safe harbor debt.
- Sec. 1305. Rules relating to inadvertent terminations and invalid elections.
- Sec. 1306. Agreement to terminate year.
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- Sec. 1308. S corporations permitted to hold subsidiaries.
- Sec. 1309. Treatment of distributions during loss years.
- Sec. 1310. Treatment of S corporations under subchapter C.
- Sec. 1311. Elimination of certain earnings and profits.
- Sec. 1312. Carryover of disallowed losses and deductions under at-risk rules allowed.
- Sec. 1313. Adjustments to basis of inherited S stock to reflect certain items of income.
- Sec. 1314. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers.
- Sec. 1315. Financial institutions.
- Sec. 1316. Certain exempt organizations allowed to be shareholders.
- Sec. 1317. Effective date.

#### Subtitle D—Pension Simplification

##### CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

- Sec. 1401. Repeal of 5-year income averaging for lump-sum distributions.
- Sec. 1402. Repeal of \$5,000 exclusion of employees' death benefits.
- Sec. 1403. Simplified method for taxing annuity distributions under certain employer plans.
- Sec. 1404. Required distributions.

##### CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

###### SUBCHAPTER A—SIMPLE SAVINGS PLANS

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- Sec. 1422. Extension of simple plan to 401(k) arrangements.

###### SUBCHAPTER B—OTHER PROVISIONS

- Sec. 1426. Tax-exempt organizations eligible under section 401(k).
- Sec. 1427. Homemakers eligible for full IRA deduction.

##### CHAPTER 3—NONDISCRIMINATION PROVISIONS

- Sec. 1431. Definition of highly compensated employees; repeal of family aggregation.
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- Sec. 1458. Treatment of length of service awards to volunteers performing fire fighting or prevention services, emergency medical services, or ambulance services.
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- Sec. 1460. Clarification of application of ERISA to insurance company general accounts.
- Sec. 1461. Special rules for chaplains and self-employed ministers.
- Sec. 1462. Definition of highly compensated employee for pre-ERISA rules for church plans.
- Sec. 1463. Rule relating to investment in contract not to apply to foreign missionaries.
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- Sec. 1501. Repeal of inclusion of certain earnings invested in excess passive assets.

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- Sec. 1604. Depreciation under income forecast method.
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- Sec. 1606. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.
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- Sec. 1610. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.
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### PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS

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#### Subtitle H—Other Provisions

- Sec. 1801. Exemption from diesel fuel dyeing requirements with respect to certain States.
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- Sec. 1805. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.
- Sec. 1806. Qualified State tuition programs.
- Sec. 1807. Adoption assistance.
- Sec. 1808. Removal of barriers to interethnic adoption.
- Sec. 1809. 6-month delay of electronic fund transfer requirement.

#### Subtitle I—Foreign Trust Tax Compliance

- Sec. 1901. Improved information reporting on foreign trusts.



- Sec. 1902. Comparable penalties for failure to file return relating to transfers to foreign entities.  
 Sec. 1903. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.  
 Sec. 1904. Foreign persons not to be treated as owners under grantor trust rules.  
 Sec. 1905. Information reporting regarding foreign gifts.  
 Sec. 1906. Modification of rules relating to foreign trusts which are not grantor trusts.  
 Sec. 1907. Residence of trusts, etc.

Subtitle J—Generalized System of Preferences

- Sec. 1951. Short title.  
 Sec. 1952. Generalized System of Preferences.  
 Sec. 1953. Effective date.  
 Sec. 1954. Conforming amendments.

TITLE II—PAYMENT OF WAGES

- Sec. 2101. Short title.  
 Sec. 2102. Proper compensation for use of employer vehicles.  
 Sec. 2103. Effective date.  
 Sec. 2104. Minimum wage increase.  
 Sec. 2105. Fair Labor Standards Act Amendments.

## TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

### SEC. 1101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

26 USC 6654  
note.

### SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.

No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this title.

## Subtitle A—Expensing; Etc.

### SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

26 USC 179.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

“(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:

“If the taxable year begins in:	The applicable amount is:
1997 .....	18,000
1998 .....	18,500
1999 .....	19,000
2000 .....	20,000
2001 or 2002 .....	24,000
2003 or thereafter .....	25,000.”.

26 USC 179 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

**SEC. 1112. TREATMENT OF EMPLOYEE TIPS.****(a) EMPLOYEE CASH TIPS.—**

(1) **REPORTING REQUIREMENT NOT CONSIDERED.**—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting “(without regard to whether such tips are reported under section 6053)” after “section 3121(q)”.

(2) **TAXES PAID.**—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 is amended by inserting “, with respect to services performed before, on, or after such date” after “1993”.

26 USC 38 note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.

26 USC 45B note.

**(b) TIPS FOR EMPLOYEES DELIVERING FOOD OR BEVERAGES.—**

(1) **IN GENERAL.**—Paragraph (2) of section 45B(b) is amended to read as follows:

“(2) **ONLY TIPS RECEIVED FOR FOOD OR BEVERAGES TAKEN INTO ACCOUNT.**—In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the providing, delivering, or serving of food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary.”

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to tips received for services performed after December 31, 1996.

26 USC 45B note.

**SEC. 1113. TREATMENT OF STORAGE OF PRODUCT SAMPLES.**

(a) **IN GENERAL.**—Paragraph (2) of section 280A(c) is amended by striking “inventory” and inserting “inventory or product samples”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

26 USC 280A note.

**SEC. 1114. TREATMENT OF CERTAIN CHARITABLE RISK POOLS.**

(a) **GENERAL RULE.**—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

**“(n) CHARITABLE RISK POOLS.—**

“(1) **IN GENERAL.**—For purposes of this title—

“(A) a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and

“(B) subsection (m) shall not apply to a qualified charitable risk pool.

“(2) **QUALIFIED CHARITABLE RISK POOL.**—For purposes of this subsection, the term ‘qualified charitable risk pool’ means any organization—

“(A) which is organized and operated solely to pool insurable risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management,

“(B) which is comprised solely of members that are organizations described in subsection (c)(3) and exempt from tax under subsection (a), and

**SEC. 1115. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.**

(a) **GENERAL RULE.**—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

“(d) **TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.**—

“(1) **IN GENERAL.**—If—

“(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

“(B) the amount of such required annual dues does not exceed \$100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

“(2) **INDEXATION OF \$100 AMOUNT.**—In the case of any taxable year beginning in a calendar year after 1995, the \$100 amount in paragraph (1) shall be increased by an amount equal to—

“(A) \$100, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 1994’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(3) **DUES.**—For purposes of this subsection, the term ‘dues’ means any payment (whether or not designated as dues) which is required to be made in order to be recognized by the organization as a member of the organization.”.

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) **TRANSITIONAL RULE.**—If—

(A) for purposes of applying part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 to any taxable year beginning before January 1, 1987, an agricultural or horticultural organization did not treat any portion of membership dues received by it as income derived in an unrelated trade or business, and

(B) such organization had a reasonable basis for not treating such dues as income derived in an unrelated trade or business,

then, for purposes of applying such part III to any such taxable year, in no event shall any portion of such dues be treated as derived in an unrelated trade or business.

(3) **REASONABLE BASIS.**—For purposes of paragraph (2), an organization shall be treated as having a reasonable basis for not treating membership dues as income derived in an unrelated trade or business if the taxpayer’s treatment of such dues was in reasonable reliance on any of the following:

(A) Judicial precedent, published rulings, technical advice with respect to the organization, or a letter ruling to the organization.

(B) A past Internal Revenue Service audit of the organization in which there was no assessment attributable

26 USC 512 note.

“(C) which meets the organizational requirements of paragraph (3).

“(3) ORGANIZATIONAL REQUIREMENTS.—An organization (hereinafter in this subsection referred to as the ‘risk pool’) meets the organizational requirements of this paragraph if—

“(A) such risk pool is organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations,

“(B) such risk pool is exempt from any income tax imposed by the State (or will be so exempt after such pool qualifies as an organization exempt from tax under this title),

“(C) such risk pool has obtained at least \$1,000,000 in startup capital from nonmember charitable organizations,

“(D) such risk pool is controlled by a board of directors elected by its members, and

“(E) the organizational documents of such risk pool require that—

“(i) each member of such pool shall at all times be an organization described in subsection (c)(3) and exempt from tax under subsection (a),

“(ii) any member which receives a final determination that it no longer qualifies as an organization described in subsection (c)(3) shall immediately notify the pool of such determination and the effective date of such determination, and

“(iii) each policy of insurance issued by the risk pool shall provide that such policy will not cover the insured with respect to events occurring after the date such final determination was issued to the insured.

An organization shall not cease to qualify as a qualified charitable risk pool solely by reason of the failure of any of its members to continue to be an organization described in subsection (c)(3) if, within a reasonable period of time after such pool is notified as required under subparagraph (C)(ii), such pool takes such action as may be reasonably necessary to remove such member from such pool.

“(4) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) STARTUP CAPITAL.—The term ‘startup capital’ means any capital contributed to, and any program-related investments (within the meaning of section 4944(c)) made in, the risk pool before such pool commences operations.

“(B) NONMEMBER CHARITABLE ORGANIZATION.—The term ‘nonmember charitable organization’ means any organization which is described in subsection (c)(3) and exempt from tax under subsection (a) and which is not a member of the risk pool and does not benefit (directly or indirectly) from the insurance coverage provided by the pool to its members.”

26 USC 501 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

to the reclassification of membership dues for purposes of the tax on unrelated business income.

(C) Long-standing recognized practice of agricultural or horticultural organizations.

**SEC. 1116. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.**

(a) CLARIFICATION OF EMPLOYMENT TAX STATUS.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—

(A) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end the following new sentence:

“For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.”.

(B) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

“(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

“(i) which does not exceed \$100 per trip;

“(ii) which is contingent on a minimum catch; and

“(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry.”.

(C) CONFORMING AMENDMENT.—Section 6050A(a) is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting “; and”, and by adding at the end the following new paragraph:

“(5) any cash remuneration described in section 3121(b)(20)(A).”.

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

42 USC 410.

(A) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end the following new sentence:

“For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.”.

(B) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

“(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

“(i) which does not exceed \$100 per trip;

“(ii) which is contingent on a minimum catch; and

“(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry.”.

(3) EFFECTIVE DATES.—

26 USC 3121  
note.

(A) IN GENERAL.—The amendments made by this subsection shall apply to remuneration paid—

(i) after December 31, 1994, and

(ii) after December 31, 1984, and before January 1, 1995, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

(B) REPORTING REQUIREMENT.—The amendment made by paragraph (1)(C) shall apply to remuneration paid after December 31, 1996.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 68 (relating to information concerning transactions with other persons) is amended by inserting after section 6050Q the following new section:

**“SEC. 6050R. RETURNS RELATING TO CERTAIN PURCHASES OF FISH.**

“(a) REQUIREMENT OF REPORTING.—Every person—

“(1) who is engaged in the trade or business of purchasing fish for resale from any person engaged in the trade or business of catching fish; and

“(2) who makes payments in cash in the course of such trade or business to such a person of \$600 or more during any calendar year for the purchase of fish,

shall make a return (at such times as the Secretary may prescribe) described in subsection (b) with respect to each person to whom such a payment was made during such calendar year.

“(b) RETURN.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of each person to whom a payment described in subsection (a)(2) was made during the calendar year;

“(B) the aggregate amount of such payments made to such person during such calendar year and the date and amount of each such payment, and

“(C) such other information as the Secretary may require.

“(c) STATEMENT TO BE FURNISHED WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such a return, and

“(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(d) DEFINITIONS.—For purposes of this section:

“(1) CASH.—The term ‘cash’ has the meaning given such term by section 6050I(d).

“(2) FISH.—The term ‘fish’ includes other forms of aquatic life.”.

## (2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (A) of section 6724(d)(1) is amended by striking “or” at the end of clause (vi), by striking “and” at the end of clause (vii) and inserting “or”, and by adding at the end the following new clause:

“(viii) section 6050R (relating to returns relating to certain purchases of fish), and”.

(B) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (Q) the following new subparagraph:

“(R) section 6050R(c) (relating to returns relating to certain purchases of fish),”.

(C) The table of sections for subpart B of part III of subchapter A of chapter 68 is amended by inserting after the item relating to 6050Q the following new item:

“Sec. 6050R. Returns relating to certain purchases of fish.”.

26 USC 6050R  
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after December 31, 1997.

**SEC. 1117. MODIFICATIONS OF TAX-EXEMPT BOND RULES FOR FIRST-TIME FARMERS.**

(a) ACQUISITION FROM RELATED PERSON ALLOWED.—Section 147(c)(2) (relating to exception for first-time farmers) is amended by adding at the end the following new subparagraph:

“(G) ACQUISITION FROM RELATED PERSON.—For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person, if—

“(i) the acquisition price is for the fair market value of such land or property, and

“(ii) subsequent to such acquisition, the related person does not have a financial interest in the farming operation with respect to which the bond proceeds are to be used.”.

(b) SUBSTANTIAL FARMLAND AMOUNT DOUBLED.—Clause (i) of section 147(c)(2)(E) (defining substantial farmland) is amended by striking “15 percent” and inserting “30 percent”.

26 USC 147 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 1118. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.**

(a) IN GENERAL.—Section 3508(b)(2)(A) is amended by striking “or” at the end of clause (i), by inserting “or” at the end of clause (ii), and by inserting after clause (ii) the following new clause:

“(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),”.

26 USC 3508  
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.

**SEC. 1119. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.**

(a) **IN GENERAL.**—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

“(2) **TRADE OR BUSINESS AND INVESTMENT PROPERTY.**—If a taxpayer’s property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in service or use to the property so converted.”.

(b) **CONFORMING AMENDMENTS.**—Section 1033(h) is amended—

(1) by striking “residence” in paragraph (3) (as redesignated by subsection (a)) and inserting “property”,

(2) by striking “PRINCIPAL RESIDENCES” in the heading and inserting “PROPERTY”, and

(3) by striking “(1) **IN GENERAL.**—” and inserting “(1) **PRINCIPAL RESIDENCES.**—”.

(c) **EXPANSION OF OKLAHOMA CITY ENTERPRISE COMMUNITY.**—Notwithstanding sections 1391 and 1392(a)(3)(D) of the Internal Revenue Code of 1986, the boundaries of the enterprise community for Oklahoma City, Oklahoma, designated by the Secretary of Housing and Urban Development on December 21, 1994, may be extended with respect to census tracts located in the area damaged due to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, primarily in the area bounded on the south by Robert S. Kerr Avenue, on the north by North 13th Street, on the east by Oklahoma Avenue, and on the west by Shartel Avenue.

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

(2) **SUBSECTION (c).**—Subsection (c) shall take effect on the date of the enactment of this Act.

26 USC 1033  
note.

**SEC. 1120. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.**

(a) **IN GENERAL.**—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, and”, and by adding at the end the following new clause:

“(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet).”.

(b) **CONFORMING AMENDMENT.**—Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(ii) in the table contained therein the following new item:

“(E)(iii)..... 20”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer

26 USC 168 note.



may elect (in such form and manner as the Secretary of the Treasury may prescribe) to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

**SEC. 1121. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.**

(a) **IN GENERAL.**—Paragraph (8) of section 168(i) is amended to read as follows:

“(8) **TREATMENT OF LEASEHOLD IMPROVEMENTS.**—

“(A) **IN GENERAL.**—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

“(B) **TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.**—An improvement—

“(i) which is made by the lessor of leased property for the lessee of such property, and

“(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned.”.

26 USC 168 note.

(b) **EFFECTIVE DATE.**—Subparagraph (B) of section 168(i)(8) of the Internal Revenue Code of 1986, as added by the amendment made by subsection (a), shall apply to improvements disposed of or abandoned after June 12, 1996.

**SEC. 1122. SPECIAL RULES RELATING TO DETERMINATION WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF EMPLOYMENT TAXES.**

26 USC 3401 note.

(a) **IN GENERAL.**—Section 530 of the Revenue Act of 1978 is amended by adding at the end the following new subsection:

“(e) **SPECIAL RULES FOR APPLICATION OF SECTION.**—

“(1) **NOTICE OF AVAILABILITY OF SECTION.**—An officer or employee of the Internal Revenue Service shall, before or at the commencement of any audit inquiry relating to the employment status of one or more individuals who perform services for the taxpayer, provide the taxpayer with a written notice of the provisions of this section.

“(2) **RULES RELATING TO STATUTORY STANDARDS.**—For purposes of subsection (a)(2)—

“(A) a taxpayer may not rely on an audit commenced after December 31, 1996, for purposes of subparagraph (B) thereof unless such audit included an examination for employment tax purposes of whether the individual involved (or any individual holding a position substantially similar to the position held by the individual involved) should be treated as an employee of the taxpayer,

“(B) in no event shall the significant segment requirement of subparagraph (C) thereof be construed to require a reasonable showing of the practice of more than 25 percent of the industry (determined by not taking into account the taxpayer), and

“(C) in applying the long-standing recognized practice requirement of subparagraph (C) thereof—

“(i) such requirement shall not be construed as requiring the practice to have continued for more than 10 years, and

“(ii) a practice shall not fail to be treated as long-standing merely because such practice began after 1978.

“(3) AVAILABILITY OF SAFE HARBORS.—Nothing in this section shall be construed to provide that subsection (a) only applies where the individual involved is otherwise an employee of the taxpayer.

“(4) BURDEN OF PROOF.—

“(A) IN GENERAL.—If—

“(i) a taxpayer establishes a prima facie case that it was reasonable not to treat an individual as an employee for purposes of this section, and

“(ii) the taxpayer has fully cooperated with reasonable requests from the Secretary of the Treasury or his delegate,

then the burden of proof with respect to such treatment shall be on the Secretary.

“(B) EXCEPTION FOR OTHER REASONABLE BASIS.—In the case of any issue involving whether the taxpayer had a reasonable basis not to treat an individual as an employee for purposes of this section, subparagraph (A) shall only apply for purposes of determining whether the taxpayer meets the requirements of subparagraph (A), (B), or (C) of subsection (a)(2).

“(5) PRESERVATION OF PRIOR PERIOD SAFE HARBOR.—If—

“(A) an individual would (but for the treatment referred to in subparagraph (B)) be deemed not to be an employee of the taxpayer under subsection (a) for any prior period, and

“(B) such individual is treated by the taxpayer as an employee for employment tax purposes for any subsequent period,

then, for purposes of applying such taxes for such prior period with respect to the taxpayer, the individual shall be deemed not to be an employee.

“(6) SUBSTANTIALLY SIMILAR POSITION.—For purposes of this section, the determination as to whether an individual holds a position substantially similar to a position held by another individual shall include consideration of the relationship between the taxpayer and such individuals.”

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to periods after December 31, 1996.

(2) NOTICE BY INTERNAL REVENUE SERVICE.—Section 530(e)(1) of the Revenue Act of 1978 (as added by subsection (a)) shall apply to audits which commence after December 31, 1996.

(3) BURDEN OF PROOF.—

(A) IN GENERAL.—Section 530(e)(4) of the Revenue Act of 1978 (as added by subsection (a)) shall apply to disputes involving periods after December 31, 1996.

(B) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer the proper treat-

26 USC 3401  
note.

ment of the burden of proof with respect to disputes involving periods before January 1, 1997.

**SEC. 1123. TREATMENT OF HOUSING PROVIDED TO EMPLOYEES BY ACADEMIC HEALTH CENTERS.**

(a) IN GENERAL.—Paragraph (4) of section 119(d) (relating to lodging furnished by certain educational institutions to employees) is amended to read as follows:

“(4) EDUCATIONAL INSTITUTION, ETC.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘educational institution’ means—

“(i) an institution described in section 170(b)(1)(A)(ii) (or an entity organized under State law and composed of public institutions so described), or

“(ii) an academic health center.

“(B) ACADEMIC HEALTH CENTER.—For purposes of subparagraph (A), the term ‘academic health center’ means an entity—

“(i) which is described in section 170(b)(1)(A)(iii),

“(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

“(iii) which has as one of its principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity’s own faculty.”.

26 USC 119 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

## Subtitle B—Extension of Certain Expiring Provisions

**SEC. 1201. WORK OPPORTUNITY TAX CREDIT.**

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 (relating to amount of credit) is amended by striking “40 percent” and inserting “35 percent”.

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

“(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

“(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

“(A) a qualified IV-A recipient,

“(B) a qualified veteran,

“(C) a qualified ex-felon,

“(D) a high-risk youth,

“(E) a vocational rehabilitation referral,

“(F) a qualified summer youth employee, or

“(G) a qualified food stamp recipient.

“(2) QUALIFIED IV-A RECIPIENT.—

“(A) IN GENERAL.—The term ‘qualified IV-A recipient’ means any individual who is certified by the designated local agency as being a member of a family receiving assist-

ance under a IV-A program for at least a 9-month period ending during the 9-month period ending on the hiring date.

“(B) IV-A PROGRAM.—For purposes of this paragraph, the term ‘IV-A program’ means any program providing assistance under a State plan approved under part A of title IV of the Social Security Act (relating to assistance for needy families with minor children) and any successor of such program.

“(3) QUALIFIED VETERAN.—

“(A) IN GENERAL.—The term ‘qualified veteran’ means any veteran who is certified by the designated local agency as being—

“(i) a member of a family receiving assistance under a IV-A program (as defined in paragraph (2)(B)) for at least a 9-month period ending during the 12-month period ending on the hiring date, or

“(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.

“(B) VETERAN.—For purposes of subparagraph (A), the term ‘veteran’ means any individual who is certified by the designated local agency as—

“(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

“(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

“(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term ‘extended active duty’ means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

“(4) QUALIFIED EX-FELON.—The term ‘qualified ex-felon’ means any individual who is certified by the designated local agency—

“(A) as having been convicted of a felony under any statute of the United States or any State,

“(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

“(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

“(5) HIGH-RISK YOUTH.—

“(A) IN GENERAL.—The term ‘high-risk youth’ means any individual who is certified by the designated local agency—

“(i) as having attained age 18 but not age 25 on the hiring date, and

“(ii) as having his principal place of abode within an empowerment zone or enterprise community.

“(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term ‘qualified wages’ shall not include wages paid or incurred for services performed while such youth’s principal place of abode is outside an empowerment zone or enterprise community.

“(6) VOCATIONAL REHABILITATION REFERRAL.—The term ‘vocational rehabilitation referral’ means any individual who is certified by the designated local agency as—

“(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

“(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

“(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

“(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

“(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

“(A) IN GENERAL.—The term ‘qualified summer youth employee’ means any individual—

“(i) who performs services for the employer between May 1 and September 15,

“(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

“(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and

“(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

“(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

“(i) subsection (b)(2) shall be applied by substituting ‘any 90-day period between May 1 and September 15’ for ‘the 1-year period beginning with the day the individual begins work for the employer’, and

“(ii) subsection (b)(3) shall be applied by substituting ‘\$3,000’ for ‘\$6,000’.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

“(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (5)(B) shall apply for purposes of subparagraph (A)(iv).

“(8) QUALIFIED FOOD STAMP RECIPIENT.—

“(A) IN GENERAL.—The term ‘qualified food stamp recipient’ means any individual who is certified by the designated local agency—

“(i) as having attained age 18 but not age 25 on the hiring date, and

“(ii) as being a member of a family—

“(I) receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date, or

“(II) receiving such assistance for at least 3 months of the 5-month period ending on the hiring date, in the case of a member of a family who ceases to be eligible for such assistance under section 6(o) of the Food Stamp Act of 1977.

“(B) PARTICIPATION INFORMATION.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Agriculture shall enter into an agreement to provide information to designated local agencies with respect to participation in the food stamp program.

Contracts.

“(9) HIRING DATE.—The term ‘hiring date’ means the day the individual is hired by the employer.

“(10) DESIGNATED LOCAL AGENCY.—The term ‘designated local agency’ means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49-49n).

“(11) SPECIAL RULES FOR CERTIFICATIONS.—

“(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

“(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

“(ii)(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to such individual, and

“(II) not later than the 21st day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term ‘pre-screening notice’ means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

“(B) INCORRECT CERTIFICATIONS.—If—

“(i) an individual has been certified by a designated local agency as a member of a targeted group, and

“(ii) such certification is incorrect because it was based on false information provided by such individual, the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is

received by the employer shall not be treated as qualified wages.

“(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial.”.

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) (relating to certain individuals ineligible) is amended to read as follows:

“(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

“(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

“(B) has completed at least 400 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer.”.

(d) TERMINATION.—Paragraph (4) of section 51(c) (relating to wages defined) is amended to read as follows:

“(4) TERMINATION.—The term ‘wages’ shall not include any amount paid or incurred to an individual who begins work for the employer—

“(A) after December 31, 1994, and before October 1, 1996, or

“(B) after September 30, 1997.”.

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2), 41(b)(2)(D)(iii), 45A(b)(1)(B), 51 (a) and (g), and 196(c) are each amended in the text by striking “targeted jobs credit” each place it appears and inserting “work opportunity credit”.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking “**Targeted Jobs Credit**” and inserting “**Work Opportunity Credit**”.

(3) The table of subparts for such part IV is amended by striking “targeted jobs credit” and inserting “work opportunity credit”.

(4) The headings for sections 41(b)(2)(D)(iii) and 1396(c)(3) are each amended by striking “TARGETED JOBS CREDIT” and inserting “WORK OPPORTUNITY CREDIT”.

(5) The heading for subsection (j) of section 51 is amended by striking “TARGETED JOBS CREDIT” and inserting “WORK OPPORTUNITY CREDIT”.

(f) TECHNICAL AMENDMENT.—Paragraph (1) of section 51(c) is amended by striking “, subsection (d)(8)(D),”.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after September 30, 1996.

#### SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking “December 31, 1994.” and inserting “May 31, 1997. In the case of any taxable year beginning in 1997, only expenses paid with respect to courses

beginning before July 1, 1997, shall be taken into account in determining the amount excluded under this section.”.

(b) **LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.**—The last sentence of section 127(c)(1) is amended by inserting before the period the following: “, and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree”.

(c) **EFFECTIVE DATES.**—

26 USC 127 note.

(1) **EXTENSION.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) **GRADUATE EDUCATION.**—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

(3) **EXPEDITED PROCEDURES.**—The Secretary of the Treasury shall establish expedited procedures for the refund of any overpayment of taxes imposed by the Internal Revenue Code of 1986 which is attributable to amounts excluded from gross income during 1995 or 1996 under section 127 of such Code, including procedures waiving the requirement that an employer obtain an employee's signature where the employer demonstrates to the satisfaction of the Secretary that any refund collected by the employer on behalf of the employee will be paid to the employee.

#### **SEC. 1203. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.**

(a) **IN GENERAL.**—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking “before January 1, 1995,”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to services performed after December 31, 1994.

#### **SEC. 1204. RESEARCH CREDIT.**

(a) **IN GENERAL.**—Subsection (h) of section 41 (relating to credit for research activities) is amended to read as follows:

“(h) **TERMINATION.**—

“(1) **IN GENERAL.**—This section shall not apply to any amount paid or incurred—

“(A) after June 30, 1995, and before July 1, 1996, or

“(B) after May 31, 1997.

Notwithstanding the preceding sentence, in the case of a taxpayer making an election under subsection (c)(4) for its first taxable year beginning after June 30, 1996, and before July 1, 1997, this section shall apply to amounts paid or incurred during the first 11 months of such taxable year.

“(2) **COMPUTATION OF BASE AMOUNT.**—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year, the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.”.

(b) **BASE AMOUNT FOR START-UP COMPANIES.**—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:



“(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

“(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

“(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.”.

(c) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—Subsection (c) of section 41 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

“(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

“(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

“(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

“(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.

“(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1996. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.”.

(d) INCREASED CREDIT FOR CONTRACT RESEARCH EXPENSES WITH RESPECT TO CERTAIN RESEARCH CONSORTIA.—Paragraph (3) of section 41(b) is amended by adding at the end the following new subparagraph:

“(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—

“(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting ‘75 percent’ for ‘65 percent’ with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research on behalf of the taxpayer and 1 or more unrelated taxpayers. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.

“(ii) QUALIFIED RESEARCH CONSORTIUM.—The term ‘qualified research consortium’ means any organization which—

“(I) is described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a),

“(II) is organized and operated primarily to conduct scientific research, and

“(III) is not a private foundation.”.

(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by inserting “, and before July 1, 1996, and periods after May 31, 1997” after “June 30, 1995”.

(f) EFFECTIVE DATES.—

26 USC 41 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1996.

(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1996.

(3) ESTIMATED TAX.—The amendments made by this section shall not be taken into account under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) in determining the amount of any installment required to be paid for a taxable year beginning in 1997.

#### SEC. 1205. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

(1) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking “plus” at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting “, plus”, and by adding at the end the following new paragraph:

“(12) the orphan drug credit determined under section 45C(a).”.

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.

(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:

“Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions”.

(b) CREDIT TERMINATION.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended to read as follows:

“(e) TERMINATION.—This section shall not apply to any amount paid or incurred—

“(1) after December 31, 1994, and before July 1, 1996, or

“(2) after May 31, 1997.”.

(c) NO PRE-JULY 1, 1996 CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

“(7) NO CARRYBACK OF SECTION 45C CREDIT BEFORE JULY 1, 1996.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year ending before July 1, 1996.”.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking “There shall be allowed as a credit against the tax imposed by this chapter for the taxable year”

and inserting "For purposes of section 38, the credit determined under this section for the taxable year is".

(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(3) Section 29(b)(6)(A) is amended by striking "sections 27 and 28" and inserting "section 27".

(4) Section 30(b)(3)(A) is amended by striking "sections 27, 28, and 29" and inserting "sections 27 and 29".

(5) Section 53(d)(1)(B) is amended—

(A) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," in clause (iii), and

(B) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" in clause (iv)(II).

(6) Section 55(c)(2) is amended by striking "28(d)(2),".

(7) Section 280C(b) is amended—

(A) by striking "section 28(b)" in paragraph (1) and inserting "section 45C(b)",

(B) by striking "section 28" in paragraphs (1) and (2)(A) and inserting "section 45C", and

(C) by striking "subsection (d)(2) thereof" in paragraphs (1) and (2)(A) and inserting "section 38(c)".

26 USC 29 note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid or incurred in taxable years ending after June 30, 1996.

#### **SEC. 1206. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.**

(a) **IN GENERAL.**—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended to read as follows:

"(D) **TERMINATION.**—This paragraph shall not apply to contributions made—

"(i) after December 31, 1994, and before July 1, 1996, or

"(ii) after May 31, 1997."

26 USC 170 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made after June 30, 1996.

#### **SEC. 1207. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.**

(a) **IN GENERAL.**—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking "January 1, 1997" and inserting "July 1, 1998" and by striking "January 1, 1996" and inserting "January 1, 1997".

26 USC 29 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act.

#### **SEC. 1208. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.**

Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as redesignated) the following new clause:

"(i) no tax shall be imposed by subsection (a) or (d)(1) during the period beginning on the date which

is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1997.”.

## **Subtitle C—Provisions Relating to S Corporations**

### **SEC. 1301. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.**

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking “35 shareholders” and inserting “75 shareholders”.

### **SEC. 1302. ELECTING SMALL BUSINESS TRUSTS.**

(a) **GENERAL RULE.**—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

“(v) An electing small business trust.”.

(b) **CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.**—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

“(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period.”.

(c) **ELECTING SMALL BUSINESS TRUST DEFINED.**—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

“(e) **ELECTING SMALL BUSINESS TRUST DEFINED.**—

“(1) **ELECTING SMALL BUSINESS TRUST.**—For purposes of this section—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘electing small business trust’ means any trust if—

“(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or (5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,

“(ii) no interest in such trust was acquired by purchase, and

“(iii) an election under this subsection applies to such trust.

“(B) **CERTAIN TRUSTS NOT ELIGIBLE.**—The term ‘electing small business trust’ shall not include—

“(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

“(ii) any trust exempt from tax under this subtitle.

“(C) **PURCHASE.**—For purposes of subparagraph (A), the term ‘purchase’ means any acquisition if the basis of the property acquired is determined under section 1012.

“(2) **POTENTIAL CURRENT BENEFICIARY.**—For purposes of this section, the term ‘potential current beneficiary’ means,

with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) CROSS REFERENCE.—

"For special treatment of electing small business trusts, see section 641(d)."

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

"(1) IN GENERAL.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

“(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

“(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term ‘electing small business trust’ has the meaning given such term by section 1361(e)(1).”.

(e) TECHNICAL AMENDMENT.—Paragraph (1) of section 1366(a) is amended by inserting “, or of a trust or estate which terminates,” after “who dies”.

#### **SEC. 1303. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.**

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking “60-day period” each place it appears in clauses (ii) and (iii) and inserting “2-year period”, and

(2) by striking the last sentence in clause (ii).

#### **SEC. 1304. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.**

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking “or a trust described in paragraph (2)” and inserting “a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money”.

#### **SEC. 1305. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.**

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

“(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

“(1) an election under subsection (a) by any corporation—  
“(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

“(B) was terminated under paragraph (2) or (3) of subsection (d),

“(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

“(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

“(A) so that the corporation is a small business corporation, or

“(B) to acquire the required shareholder consents, and

“(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary.”

(b) LATE ELECTIONS, ETC.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

“(5) AUTHORITY TO TREAT LATE ELECTIONS, ETC., AS TIMELY.—If—

“(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year or no such election is made for any taxable year, and

“(B) the Secretary determines that there was reasonable cause for the failure to timely make such election, the Secretary may treat such an election as timely made for such taxable year (and paragraph (3) shall not apply).”

26 USC 1362  
note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

#### SEC. 1306. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

“(2) ELECTION TO TERMINATE YEAR.—

“(A) IN GENERAL.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder’s interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

“(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term ‘affected shareholders’ means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term ‘affected shareholders’ shall include all persons who are shareholders during the taxable year.”

#### SEC. 1307. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking “and” at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

“(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation’s election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and”.

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

“(A) a determination as defined in section 1313(a), or”.

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed. 26 USC 6241 *et seq.*

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

“(c) SHAREHOLDER’S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

“(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder’s return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

“(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

“(A) IN GENERAL.—In the case of any subchapter S item, if—

“(i)(I) the corporation has filed a return but the shareholder’s treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

“(II) the corporation has not filed a return, and

“(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

“(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

“(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder’s return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

“(ii) elects to have this paragraph apply with respect to that item.

“(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

“(A) described in subparagraph (A)(i)(I) of paragraph (2), and

“(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

“(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term ‘subchapter S item’ means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.



**“(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—**

“For addition to tax in the case of a shareholder’s negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.”.

**(3) CONFORMING AMENDMENTS.—**

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

“(b) **SIMILAR RULES IN CERTAIN CASES.**—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.”.

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

**SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.**

(a) **IN GENERAL.**—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) **TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.**—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

**“(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—**

**“(A) IN GENERAL.**—For purposes of this title—

“(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

“(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

**“(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.**—For purposes of this paragraph, the term ‘qualified subchapter S subsidiary’ means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

“(i) 100 percent of the stock of such corporation is held by the S corporation, and

“(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

**“(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.**—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.

**“(D) ELECTION AFTER TERMINATION.**—If a corporation’s status as a qualified subchapter S subsidiary terminates, such corporation (and any successor corporation) shall not be eligible to make—

“(i) an election under subparagraph (B)(ii) to be treated as a qualified subchapter S subsidiary, or

“(ii) an election under section 1362(a) to be treated as an S corporation, before its 5th taxable year which begins after the 1st taxable year for which such termination was effective, unless the Secretary consents to such election.”.

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

“(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term ‘passive investment income’ shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.”.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

“(8) An S corporation.”.

#### SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking “paragraph (1)” and inserting “paragraphs (1) and (2)(A)”.

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new flush sentence:

“In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year.”.

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

“(C) NET LOSS FOR YEAR DISREGARDED.—

“(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

“(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term ‘net negative adjustment’ means, with respect to any taxable year, the excess (if any) of—

“(I) the reductions in the account for the taxable year (other than for distributions), over

“(II) the increases in such account for such taxable year.”.

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

- (1) by striking “as provided in subparagraph (B)” and inserting “as otherwise provided in this paragraph”, and
- (2) by striking “section 1367(b)(2)(A)” and inserting “section 1367(a)(2)”.

#### SEC. 1310. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

“(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.”.

26 USC 1361  
note.

#### SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1996,

the amount of such corporation’s accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1362(d), as amended by section 1308, is amended—

(A) by striking “SUBCHAPTER C” in the paragraph heading and inserting “ACCUMULATED”;

(B) by striking “subchapter C” in subparagraph (A)(i)(I) and inserting “accumulated”, and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking “subchapter C” in paragraph (1) and inserting “accumulated”.

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

“(3) PASSIVE INVESTMENT INCOME, ETC.—The terms ‘passive investment income’ and ‘gross receipts’ have the same respective meanings as when used in paragraph (3) of section 1362(d).”.

(C) The section heading for section 1375 is amended by striking “**subchapter C**” and inserting “**accumulated**”.

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking “subchapter C” in the item relating to section 1375 and inserting “accumulated”.

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking “section 1362(d)(3)(D)” and inserting “section 1362(d)(3)(C)”.

#### SEC. 1312. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

“(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder’s amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a).”.

**SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.**

(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

“(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

“(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

“(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act. 26 USC 1367 note.

**SEC. 1314. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.**

(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking “other than a corporation” in the material preceding paragraph (1) and inserting “other than a C corporation”.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting “an S corporation which included the taxpayer as a shareholder,” after “controlled by the taxpayer,”.

**SEC. 1315. FINANCIAL INSTITUTIONS.**

Subparagraph (A) of section 1361(b)(2) (defining ineligible corporation), as redesignated by section 1308(a), is amended to read as follows:

“(A) a financial institution which uses the reserve method of accounting for bad debts described in section 585,”.

**SEC. 1316. CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO BE SHAREHOLDERS.**

(a) ELIGIBILITY TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Subparagraph (B) of section 1361(b)(1) (defining small business corporation) is amended to read as follows:

“(B) have as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organiza-

tion described in subsection (c)(7)) who is not an individual.”.

(2) ELIGIBLE EXEMPT ORGANIZATIONS.—Section 1361(c) (relating to special rules for applying subsection (b)) is amended by adding at the end the following new paragraph:

“(7) CERTAIN EXEMPT ORGANIZATIONS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (b)(1)(B), an organization which is—

“(A) described in section 401(a) or 501(c)(3), and

“(B) exempt from taxation under section 501(a), may be a shareholder in an S corporation.”.

(b) CONTRIBUTIONS OF S CORPORATION STOCK.—Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new sentence: “For purposes of applying this paragraph in the case of a charitable contribution of stock in an S corporation, rules similar to the rules of section 751 shall apply in determining whether gain on such stock would have been long-term capital gain if such stock were sold by the taxpayer.”.

(c) TREATMENT OF INCOME.—Section 512 (relating to unrelated business taxable income), as amended by section 1113, is amended by adding at the end the following new subsection:

“(e) SPECIAL RULES APPLICABLE TO S CORPORATIONS.—

“(1) IN GENERAL.—If an organization described in section 1361(c)(7) holds stock in an S corporation—

“(A) such interest shall be treated as an interest in an unrelated trade or business, and

“(B) notwithstanding any other provision of this part—

“(i) all items of income, loss, or deduction taken into account under section 1366(a), and

“(ii) any gain or loss on the disposition of the stock in the S corporation,

shall be taken into account in computing the unrelated business taxable income of such organization.

“(2) BASIS REDUCTION.—Except as provided in regulations, for purposes of paragraph (1), the basis of any stock acquired by purchase (within the meaning of section 1012) shall be reduced by the amount of any dividends received by the organization with respect to the stock.”.

(d) CERTAIN BENEFITS NOT APPLICABLE TO S CORPORATIONS.—

(1) CONTRIBUTION TO ESOPS.—Paragraph (9) of section 404(a) (relating to certain contributions to employee ownership plans) is amended by inserting at the end the following new subparagraph:

“(C) S CORPORATIONS.—This paragraph shall not apply to an S corporation.”.

(2) DIVIDENDS ON EMPLOYER SECURITIES.—Paragraph (1) of section 404(k) (relating to deduction for dividends on certain employer securities) is amended by striking “a corporation” and inserting “a C corporation”.

(3) EXCHANGE TREATMENT.—Subparagraph (A) of section 1042(c)(1) (defining qualified securities) is amended by striking “domestic corporation” and inserting “domestic C corporation”.

(e) CONFORMING AMENDMENT.—Clause (i) of section 1361(e)(1)(A), as added by section 1302, is amended by striking “which holds a contingent interest and is not a potential current beneficiary”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1997. 26 USC 170 note.

**SEC. 1317. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1996. 26 USC 641 note.

(b) **TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.**—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1997, shall not be taken into account. 26 USC 1362 note.

## **Subtitle D—Pension Simplification**

### **CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES**

#### **SEC. 1401. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.**

(a) **IN GENERAL.**—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

“(d) **TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.**—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).”

(b) **CONFORMING AMENDMENTS.**—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

“(D) **LUMP-SUM DISTRIBUTION.**—For purposes of this paragraph—

“(i) **IN GENERAL.**—The term ‘lump-sum distribution’ means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

“(I) on account of the employee's death,

“(II) after the employee attains age 59½,

“(III) on account of the employee's separation from service, or

“(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

“(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

“(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

“(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

“(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

“(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

“(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

“(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

“(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.”.

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking “shall not include any tax imposed by section 402(d) and”.

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

“(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term ‘lump-sum distribution’ has the meaning given such term by section 402(e)(4)(D) (without regard to subclauses (I), (II), (III), and (IV) of clause (i) thereof).”

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking “section 1, 55, or 402(d)(1)” and inserting “section 1 or 55”.

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking “section 1, 55, or 402(d)(1)” and inserting “section 1 or 55”.

(12) Section 4980A(c)(4) is amended—

(A) by striking “to which an election under section 402(d)(4)(B) applies” and inserting “(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply”,

(B) by adding at the end the following new flush sentence:

“An individual may elect to have this paragraph apply to only one lump-sum distribution.”, and

(C) by striking the heading and inserting:

“(4) SPECIAL ONE-TIME ELECTION.—”.

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

(2) RETENTION OF CERTAIN TRANSITION RULES.—The amendments made by this section shall not apply to any distribution for which the taxpayer is eligible to elect the benefits of section 1122(h) (3) or (5) of the Tax Reform Act of 1986. Notwithstanding the preceding sentence, individuals who elect such benefits after December 31, 1999, shall not be eligible for 5-year averaging under section 402(d) of the Internal Revenue Code of 1986 (as in effect immediately before such amendments).

26 USC 402 note.

#### SEC. 1402. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking “subsection (a) or (b)” and inserting “subsection (a)”.



(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking “, for the purpose of applying the provisions of section 101(b) with respect to employees’ death benefits”.

26 USC 101 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to decedents dying after the date of the enactment of this Act.

**SEC. 1403. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.**

(a) **GENERAL RULE.**—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

“(d) **SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.**—

“(1) **SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.**—

“(A) **IN GENERAL.**—In the case of any amount received as an annuity under a qualified employer retirement plan—

“(i) subsection (b) shall not apply, and

“(ii) the investment in the contract shall be recovered as provided in this paragraph.

“(B) **METHOD OF RECOVERING INVESTMENT IN CONTRACT.**—

“(i) **IN GENERAL.**—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

“(I) the investment in the contract (as of the annuity starting date), by

“(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

“(ii) **CERTAIN RULES MADE APPLICABLE.**—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

“(iii) **NUMBER OF ANTICIPATED PAYMENTS.**—

“If the age of the primary annuitant on the annuity starting date is:

	The number of anticipated payments is:
Not more than 55 .....	360
More than 55 but not more than 60 .....	310
More than 60 but not more than 65 .....	260
More than 65 but not more than 70 .....	210
More than 70 .....	160.

“(C) **ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.**—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

“(D) **SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.**—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump-sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after the 90th day after the date of the enactment of this Act.

26 USC 72 note.

#### SEC. 1404. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

“(iv) EXCEPTION FOR GOVERNMENTAL PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term ‘church plan’ means a plan maintained by a church for church members and the term ‘church’ means any church organization (as defined in section 3121(w)(2)(B)) or qualified church organization (as defined in section 3121(w)(2)(C)).”

26 USC 401 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

## CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

### Subchapter A—Simple Savings Plans

#### SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE MATCHING FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following section:

“(p) SIMPLE RETIREMENT ACCOUNTS.—

“(1) IN GENERAL.—For purposes of this title, the term ‘simple retirement account’ means an individual retirement account (as defined in section 7701(a)(37))—

“(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

“(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

“(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified salary reduction arrangement’ means a salary reduction arrangement of an eligible employer under section 408(k) which—

“(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

“(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

“(II) to the employee directly in cash; and

“(ii) the amount which an employee is required to contribute under clause (i) for any year is required to be not more than a percentage of compensation and may not exceed a total of \$6,000 for any year,

“(iii) the employer is required to make contributions to the simple retirement account for each year in an amount equal to so much of the contributions the employee elects under clause (i)(I) as do not exceed the applicable percentage of compensation for the year, and

“(iv) no contributions may be made under the arrangement other than contributions described in clause (i) or (iii).

“(B) EMPLOYER MAY ELECT 2-PERCENT NON-REDUCED CONTRIBUTION.—

“(i) IN GENERAL.—An employer shall be treated as meeting the requirements of subparagraph (A)(iii) for any year if, in lieu of the contributions described in such clause, the employer elects to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least \$5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

“(ii) COMPENSATION LIMITATION.—The compensation taken into account under clause (i) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

“(C) DEFINITIONS.—For purposes of this subsection—

“(i) ELIGIBLE EMPLOYER.—

“(I) IN GENERAL.—The term ‘eligible employer’ means, with respect to any year, an employer which had no more than 100 employees who received at least \$5,000 of compensation from the employer for the preceding year.

“(II) 2-YEAR GRACE PERIOD.—An eligible employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer. If such failure is due to any acquisition, disposition, or similar transaction involving an eligible employer, the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i).

“(ii) APPLICABLE PERCENTAGE.—

“(I) IN GENERAL.—The term ‘applicable percentage’ means 3 percent.

“(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.

“(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching

contribution was at 3 percent of compensation for such prior year.

“(D) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

“(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

“(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term ‘qualified plan’ means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

“(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the \$6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1996, and any increase under this subparagraph which is not a multiple of \$500 shall be rounded to the next lower multiple of \$500.

“(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee’s rights to any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, rules similar to the rules of subsection (k)(4) shall apply.

“(4) PARTICIPATION REQUIREMENTS.—

“(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

“(i) received at least \$5,000 in compensation from the employer during any 2 preceding years, and

“(ii) are reasonably expected to receive at least \$5,000 in compensation during the year,  
are eligible to make the election under paragraph (2)(A)(i) or receive the nonelective contribution described in paragraph (2)(B).

“(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

“(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—

“(A) an employer must—

“(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

“(ii) make the matching contributions under paragraph (2)(A)(iii) or the nonelective contributions under

paragraph (2)(B) not later than the date described in section 404(m)(2)(B),

“(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

“(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year (and the 60-day period before the first day such employee is eligible to participate), to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) COMPENSATION.—

“(i) IN GENERAL.—The term ‘compensation’ means amounts described in paragraphs (3) and (8) of section 6051(a).

“(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), the term ‘compensation’ means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

“(B) EMPLOYEE.—The term ‘employee’ includes an employee as defined in section 401(c)(1).

“(C) YEAR.—The term ‘year’ means the calendar year.

“(7) USE OF DESIGNATED FINANCIAL INSTITUTION.—A plan shall not be treated as failing to satisfy the requirements of this subsection or any other provision of this title merely because the employer makes all contributions to the individual retirement accounts or annuities of a designated trustee or issuer. The preceding sentence shall not apply unless each plan participant is notified in writing (either separately or as part of the notice under subsection (1)(2)(C)) that the participant’s balance may be transferred without cost or penalty to another individual account or annuity in accordance with subsection (d)(3)(G).”

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

“(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—

This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).”

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking “or” at the end of clause (iv) and by adding at the end the following new clause:

“(vi) any simple retirement account (within the meaning of section 408(p)), or”.

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

“(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

“(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

“(2) TIMING.—

“(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

“(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof).”

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

“(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p).”

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

“(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in subsection (p)) unless—

“(i) it is paid into another simple retirement account, or

“(ii) in the case of any payment or distribution to which section 72(t)(6) does not apply, it is paid into an individual retirement plan.”

(C) Clause (i) of section 457(c)(2)(B) is amended by striking “section 402(h)(1)(B)” and inserting “section 402(h)(1)(B) or (k).”

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end the following new paragraph:

“(6) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting ‘25 percent’ for ‘10 percent’.”

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

“(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of \$50 for each day on which such failures continue.

“(2) TRUSTEE PENALTIES.—A trustee who fails—

“(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of \$50 for each day on which such failures continue, or

“(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of \$50 for each day on which such failures continue.

“(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.”.

(5) REPORTING REQUIREMENTS.—

(A) Section 408(l) is amended by adding at the end the following new paragraph:

“(2) SIMPLE RETIREMENT ACCOUNTS.—

“(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

“(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

“(i) The name and address of the employer and the trustee.

“(ii) The requirements for eligibility for participation.

“(iii) The benefits provided with respect to the arrangement.

“(iv) The time and method of making elections with respect to the arrangement.

“(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

“(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B).”.

(B) Section 408(l) is amended by striking “An employer” and inserting the following:

“(1) IN GENERAL.—An employer”.

(6) REPORTING REQUIREMENTS.—Section 408(i) is amended by adding at the end the following new flush sentence:

“In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year.”.

(7) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:



“(G) SIMPLE RETIREMENT ACCOUNTS.—The term ‘top-heavy plan’ shall not include a simple retirement account under section 408(p).”

(8) EMPLOYMENT TAXES.—

(A) Paragraph (5) of section 3121(a) is amended by striking “or” at the end of subparagraph (F), by inserting “or” at the end of subparagraph (G), and by adding at the end the following new subparagraph:

“(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof.”

26 USC 409.

(B) Section 209(a)(4) of the Social Security Act is amended by inserting “; or (J) under an arrangement to which section 408(p) of such Code applies, other than any elective contributions under paragraph (2)(A)(i) thereof” before the semicolon at the end thereof.

(C) Paragraph (5) of section 3306(b) is amended by striking “or” at the end of subparagraph (F), by inserting “or” at the end of subparagraph (G), and by adding at the end the following new subparagraph:

“(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof.”

(D) Paragraph (12) of section 3401(a) is amended by adding the following new subparagraph:

“(D) under an arrangement to which section 408(p) applies; or”.

(9) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, or” and by adding after subparagraph (C) the following new subparagraph:

“(D) a simple retirement account described in section 408(p).”

(B) Section 402(g)(3) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by adding after subparagraph (C) the following new subparagraph:

“(D) any elective employer contribution under section 408(p)(2)(A)(i).”

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting “408(p),” after “408(k).”

(D) Section 4972(d)(1)(A) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding after clause (iii) the following new clause:

“(iv) any simple retirement account (within the meaning of section 408(p)).”

(c) REPEAL OF SALARY REDUCTION SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k)(6) is amended by adding at the end the following new subparagraph:

“(H) TERMINATION.—This paragraph shall not apply to years beginning after December 31, 1996. The preceding sentence shall not apply to a simplified employee pension

if the terms of such pension, as in effect on December 31, 1996, provide that an employee may make the election described in subparagraph (A).”.

(d) MODIFICATIONS OF ERISA.—

(1) REPORTING REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) SIMPLE RETIREMENT ACCOUNTS.—

“(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986.

“(2) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of such Code shall provide to the employer maintaining the arrangement each year a description containing the following information:

“(A) The name and address of the employer and the trustee.

“(B) The requirements for eligibility for participation.

“(C) The benefits provided with respect to the arrangement.

“(D) The time and method of making elections with respect to the arrangement.

“(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

“(3) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in section 408(p)(5)(C) of such Code may be made of the employee’s opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2).”

(2) FIDUCIARY DUTIES.—Section 404(c) of such Act (29 U.S.C. 1104(c)) is amended by inserting “(1)” after “(c)”, by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following new paragraph:

“(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—

“(A) an affirmative election among investment options with respect to the initial investment of any contribution,

“(B) a rollover to any other simple retirement account or individual retirement plan, or

“(C) one year after the simple retirement account is established.

No reports, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to such a qualified salary reduction arrangement.”.

26 USC 72 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 1422. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.**

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NON-DISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

“(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

“(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

“(i) the contribution requirements of subparagraph (B),  
“(ii) the exclusive plan requirements of subparagraph (C), and  
“(iii) the vesting requirements of section 408(p)(3).

“(B) CONTRIBUTION REQUIREMENTS.—

“(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement—

“(I) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds \$6,000,

“(II) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

“(III) no other contributions may be made other than contributions described in subclause (I) or (II).

“(ii) EMPLOYER MAY ELECT 2-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of clause (i)(II) for any year if, in lieu of the contributions described in such clause, the employer elects (pursuant to the terms of the arrangement) to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least \$5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

“(C) EXCLUSIVE PLAN REQUIREMENT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred

arrangement, other than contributions described in subparagraph (B).

“(D) DEFINITIONS AND SPECIAL RULE.—

“(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

“(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year.”.

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NON-DISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

“(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

“(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

“(B) meets the exclusive plan requirements of subsection (k)(11)(C), and

“(C) meets the vesting requirements of section 408(p)(3).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996. 26 USC 401 note.

### Subchapter B—Other Provisions

#### SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

“(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

“(i) TAX-EXEMPTS ELIGIBLE.—Except as provided in clause (ii), any organization exempt from tax under this subtitle may include a qualified cash or deferred arrangement as part of a plan maintained by it.

“(ii) GOVERNMENTS INELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This clause shall not apply to a rural cooperative plan or to a plan of an employer described in clause (iii).

“(iii) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in

part by any of the foregoing may include a qualified cash or deferred arrangement as part of a plan maintained by the employer.”.

26 USC 401 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

**SEC. 1427. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.**

(a) **SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.**—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

“(c) **SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.**—

“(1) **IN GENERAL.**—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

“(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

“(B) the sum of—

“(i) the compensation includible in such individual’s gross income for the taxable year, plus

“(ii) the compensation includible in the gross income of such individual’s spouse for the taxable year reduced by the amount allowed as a deduction under subsection (a) to such spouse for such taxable year.

“(2) **INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.**—Paragraph (1) shall apply to any individual if—

“(A) such individual files a joint return for the taxable year, and

“(B) the amount of compensation (if any) includible in such individual’s gross income for the taxable year is less than the compensation includible in the gross income of such individual’s spouse for the taxable year.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking “subsections (b) and (c)” and inserting “subsection (b)”.

(2) Section 219(g)(1) is amended by striking “(c)(2)” and inserting “(c)(1)(A)”.

(3) Section 408(d)(5) is amended by striking “\$2,250” and inserting “the dollar amount in effect under section 219(b)(1)(A)”.

26 USC 219 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**CHAPTER 3—NONDISCRIMINATION PROVISIONS**

**SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.**

(a) **IN GENERAL.**—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

“(1) **IN GENERAL.**—The term ‘highly compensated employee’ means any employee who—

“(A) was a 5-percent owner at any time during the year or the preceding year, or

“(B) for the preceding year—

“(i) had compensation from the employer in excess of \$80,000, and

“(ii) if the employer elects the application of this clause for such preceding year, was in the top-paid group of employees for such preceding year.

The Secretary shall adjust the \$80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.”

(b) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (5), and (12) and by redesignating paragraphs (3), (4), (7), (8), (9), (10), and (11) as paragraphs (2) through (8), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking “section 414(q)(7)” and inserting “section 414(q)(4)”.

(C) Section 416(i)(1)(A) is amended by striking “section 414(q)(8)” and inserting “section 414(q)(5)”.

(D) Subparagraph (A) of section 414(r)(2) is amended by striking “subsection (q)(8)” and inserting “subsection (q)(5)”.

(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking “under paragraph (4), or the number of officers taken into account under paragraph (5)”.

(2) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: “Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.” 26 USC 414 note.

(d) EFFECTIVE DATE.—

26 USC 414 note.

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1996, except that in determining whether an employee is a highly compensated employee for years beginning in 1997, such amendments shall be treated as having been in effect for years beginning in 1996.

(2) FAMILY AGGREGATION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 1996.

#### SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

“(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on

each day of the plan year such trust benefits at least the lesser of—

“(i) 50 employees of the employer, or

“(ii) the greater of—

“(I) 40 percent of all employees of the employer, or

“(II) 2 employees (or if there is only 1 employee, such employee).”.

(b) **SEPARATE LINE OF BUSINESS TEST.**—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking “paragraph (7)” and inserting “paragraph (2)(A) or (7)”.

26 USC 401 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to years beginning after December 31, 1996.

**SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.**

(a) **ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.**—Section 401(k) (relating to cash or deferred arrangements), as amended by section 1422, is amended by adding at the end the following new paragraph:

“(12) **ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.**—

“(A) **IN GENERAL.**—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

“(i) meets the contribution requirements of subparagraph (B) or (C), and

“(ii) meets the notice requirements of subparagraph (D).

“(B) **MATCHING CONTRIBUTIONS.**—

“(i) **IN GENERAL.**—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

“(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

“(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

“(ii) **RATE FOR HIGHLY COMPENSATED EMPLOYEES.**—

The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective contribution of a highly compensated employee at any rate of elective contribution is greater than that with respect to an employee who is not a highly compensated employee.

“(iii) **ALTERNATIVE PLAN DESIGNS.**—If the rate of any matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

“(I) the rate of an employer’s matching contribution does not increase as an employee’s rate of elective contributions increase, and

“(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

“(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee’s compensation.

“(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee’s rights and obligations under the arrangement which—

“(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

“(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

“(E) OTHER REQUIREMENTS.—

“(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) of this paragraph unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraphs (B) and (C) of this paragraph are met.

“(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

“(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.”.

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NON-DISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by section 1422(b), is amended by redesignating paragraph (11) as paragraph (12) and by adding after paragraph (10) the following new paragraph:



## “(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

“(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

“(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

“(ii) meets the notice requirements of subsection (k)(12)(D), and

“(iii) meets the requirements of subparagraph (B).

“(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

“(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

“(ii) the rate of an employer's matching contribution does not increase as the rate of an employee's contributions or elective deferrals increase, and

“(iii) the matching contribution with respect to any highly compensated employee at any rate of an employee contribution or rate of elective deferral is not greater than that with respect to an employee who is not a highly compensated employee.”.

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(3)(A) is amended—

(A) by striking “such year” in clause (ii) and inserting “the plan year”,

(B) by striking “for such plan year” in clause (ii) and inserting “for the preceding plan year”, and

(C) by adding at the end the following new sentence: “An arrangement may apply clause (ii) by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.”.

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting “for such plan year” after “highly compensated employees”,

(B) by inserting “for the preceding plan year” after “eligible employees” each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence: “This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.”.

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

“(E) For purposes of this paragraph, in the case of the first plan year of any plan (other than a successor plan), the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

“(i) 3 percent, or

“(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.”.

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: “Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.”.

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND EXCESS AGGREGATE CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking “on the basis of the respective portions of the excess contributions attributable to each of such employees” and inserting “on the basis of the amount of contributions by, or on behalf of, each of such employees”.

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking “on the basis of the respective portions of such amounts attributable to each of such employees” and inserting “on the basis of the amount of contributions on behalf of, or by, each such employee”.

(f) EFFECTIVE DATES.—

26 USC 401 note.

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.

(2) EXCEPTIONS.—The amendments made by subsections (c), (d), and (e) shall apply to years beginning after December 31, 1996.

**SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.**

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

“(D) CERTAIN DEFERRALS INCLUDED.—The term ‘participant's compensation’ shall include—

“(i) any elective deferral (as defined in section 402(g)(3)), and

“(ii) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(4), as redesignated by section 1431, is amended to read as follows:

“(4) COMPENSATION.—For purposes of this subsection, the term ‘compensation’ has the meaning given such term by section 415(c)(3).”.

(2) Section 414(s)(2) is amended by inserting “not” after “elect” in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

26 USC 414 note.

## CHAPTER 4—MISCELLANEOUS PROVISIONS

## SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

“(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.”

26 USC 401 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

## SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO 1986 CODE.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking “subparagraph (A), (B), or (C)” and inserting “subparagraph (A) or (B)”; and

(2) by striking subparagraph (C).

(b) AMENDMENTS TO ERISA.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by striking “subparagraph (A), (B), or (C)” and inserting “subparagraph (A) or (B)”; and

(2) by striking subparagraph (C).

26 USC 411 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1997, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

## SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term ‘hardship distribution’ means a distribution described in paragraph (2)(B)(i)(IV) (without

regard to the limitation of its application to profit-sharing or stock bonus plans).”.

(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

“(i) any organization which—

“(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

“(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof).”.

(c) EFFECTIVE DATES.—

26 USC 401 note.

(1) DISTRIBUTIONS.—The amendments made by subsection

(a) shall apply to distributions after the date of the enactment of this Act.

(2) PUBLIC UTILITY DISTRICTS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1996.

#### SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

“(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.”.

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

“(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

“(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

“(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

“(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

“(B) the treatment of such amounts when so includible by the participant, shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not

exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

“(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term ‘qualified governmental excess benefit arrangement’ means a portion of a governmental plan if—

“(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant’s annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

“(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

“(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.”.

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

“(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.”.

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting “, and”, and by inserting immediately thereafter the following new subparagraph:

“(E) a qualified governmental excess benefit arrangement described in section 415(m).”.

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

“(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (C) of this paragraph and paragraph (5) shall not apply to—

“(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

“(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.”.

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

“(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall

apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.”.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking “This” and inserting:

“(i) IN GENERAL.—This”.

(e) EFFECTIVE DATE.—

26 USC 415 note.

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE JANUARY 1, 1995.—Nothing in the amendments made by this section shall be construed to imply that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before January 1, 1995.

#### SEC. 1445. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

“(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

“(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

“(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee’s social security retirement age (as so defined).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1996.

26 USC 401 note.

#### SEC. 1446. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: “If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1996.

26 USC 415 note.

**SEC. 1447. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.**

(a) **SPECIAL RULES FOR PLAN DISTRIBUTIONS.**—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

“(9) **BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.**—

“(A) **TOTAL AMOUNT PAYABLE IS \$3,500 OR LESS.**—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant’s consent) if—

“(i) such amount does not exceed \$3,500, and

“(ii) such amount may be distributed only if—

“(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

“(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

“(B) **ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.**—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

“(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

“(ii) the participant may make only 1 such election.”.

(b) **COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.**—Subsection (e) of section 457, as amended by section 1444(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:

“(15) **COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.**—The Secretary shall adjust the \$7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of \$500 shall be rounded to the next lowest multiple of \$500.”.

26 USC 457 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 1448. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.**

(a) **IN GENERAL.**—Section 457 is amended by adding at the end the following new subsection:

**“(g) GOVERNMENTAL PLANS MUST MAINTAIN SET-ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—**

“(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

“(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

“(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

“(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

“(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f).”

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting “except as provided in subsection (g),” before “which provides that”.

(c) EFFECTIVE DATES.—

26 USC 457 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of a plan in existence on the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before January 1, 1999.

**SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.**

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

26 USC 411 note.

“(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

“(i) the later of the date a plan amendment applying the amendments made by subsection (b) is adopted or made effective, or

“(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 before such earlier date shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except that the modification made by section 1449(b) of the Small Business Job Protection Act of 1996 shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).”



(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—

(1) by striking “Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C),” in clause (i) and inserting “For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),”, and

(2) by striking “For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3),” in clause (ii) and inserting “For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),”.

26 USC 415 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

26 USC 411 note.

(d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767 of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

#### SEC. 1450. MODIFICATIONS OF SECTION 403(b).

26 USC 403 note.

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) CONSTRUCTIVE RECEIPT.—Section 402(e)(3) is amended by inserting “or which is part of a salary reduction agreement under section 403(b)” after “section 401(k)(2)”.

(3) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corpora-

tion chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(2) **ROLLOVERS.**—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.

(c) **ELECTIVE DEFERRALS.**—

(1) **IN GENERAL.**—Subparagraph (E) of section 403(b)(1) is amended to read as follows:

“(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30).”

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to years beginning after December 31, 1995, except a contract shall not be required to meet any change in any requirement by reason of such amendment before the 90th day after the date of the enactment of this Act.

26 USC 403 note.

#### **SEC. 1451. SPECIAL RULES RELATING TO JOINT AND SURVIVOR ANNUITY EXPLANATIONS.**

(a) **AMENDMENT TO INTERNAL REVENUE CODE.**—Section 417(a) is amended by adding at the end the following new paragraph:

“(7) **SPECIAL RULES RELATING TO TIME FOR WRITTEN EXPLANATION.**—Notwithstanding any other provision of this subsection—

“(A) **EXPLANATION MAY BE PROVIDED AFTER ANNUITY STARTING DATE.**—

“(i) **IN GENERAL.**—A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting date. In any case to which this subparagraph applies, the applicable election period under paragraph (6) shall not end before the 30th day after the date on which such explanation is provided.

“(ii) **REGULATORY AUTHORITY.**—The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

“(B) **WAIVER OF 30-DAY PERIOD.**—A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided.”.

(b) **AMENDMENT TO ERISA.**—Section 205(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)) is amended by adding at the end the following new paragraph:

“(8) Notwithstanding any other provision of this subsection—

“(A)(i) A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting

date. In any case to which this subparagraph applies, the applicable election period under paragraph (7) shall not end before the 30th day after the date on which such explanation is provided.

“(ii) The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

“(B) A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided.”.

26 USC 417 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

**SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.**

(a) **IN GENERAL.**—Section 415(e) is repealed.

(b) **EXCESS DISTRIBUTIONS.**—Section 4980A is amended by adding at the end the following new subsection:

“(g) **LIMITATION ON APPLICATION.**—This section shall not apply to distributions during years beginning after December 31, 1996, and before January 1, 2000, and such distributions shall be treated as made first from amounts not described in subsection (f).”.

(c) **CONFORMING AMENDMENTS.**—

(1) Paragraph (1) of section 415(a) is amended—

(A) by adding “or” at the end of subparagraph (A),

(B) by striking “, or” at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C).

(2) Subparagraph (B) of section 415(b)(5) is amended by striking “and subsection (e)”.

(3) Paragraph (1) of section 415(f) is amended by striking “subsections (b), (c), and (e)” and inserting “subsections (b) and (c)”.

(4) Subsection (g) of section 415 is amended by striking “subsections (e) and (f)” in the last sentence and inserting “subsection (f)”.

(5) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

“(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and”.

(6) Clause (ii) of section 415(k)(2)(A) is amended by striking “subsections (c) and (e)” and inserting “subsection (c)”.

(7) Section 416 is amended by striking subsection (h).

26 USC 415 note.

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1999.

(2) **EXCESS DISTRIBUTIONS.**—The amendment made by subsection (b) shall apply to years beginning after December 31, 1996.

**SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.**

(a) **IN GENERAL.**—Section 4975(a) is amended by striking “5 percent” and inserting “10 percent”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

26 USC 4975  
note.

**SEC. 1454. TREATMENT OF LEASED EMPLOYEES.**

(a) **GENERAL RULE.**—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

“(C) such services are performed under primary direction or control by the recipient.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

26 USC 414 note.

**SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.**

(a) **PENALTIES.**—

(1) **STATEMENTS.**—Paragraph (1) of section 6724(d) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by inserting after subparagraph (B) the following new subparagraph:

“(C) any statement of the amount of payments to another person required to be made to the Secretary under—

“(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

“(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).”.

(2) **REPORTS.**—Paragraph (2) of section 6724(d) is amended by striking “or” at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting a comma, and by inserting after subparagraph (V) the following new subparagraphs:

“(W) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

“(X) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.”.

(b) **MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.**—

(1) **SECTION 408.**—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting “aggregating \$10 or more in any calendar year” after “distributions”.

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: “No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate \$10 or more.”.

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking “the \$10” and inserting “\$100”, and

(2) by striking “\$5,000” and inserting “\$50,000”.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

“(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.”.

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: “This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(X).”.

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: “This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).”.

26 USC 408 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1996.

**SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.**

(a) IN GENERAL.—Section 1402(a)(8) (defining net earnings from self-employment) is amended by inserting “, but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e)) after the individual retires” before the semicolon at the end.

26 USC 1402 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.

26 USC 414 note.

**SEC. 1457. SAMPLE LANGUAGE FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS FORMS.**

(a) DEVELOPMENT OF SAMPLE LANGUAGE.—Not later than January 1, 1997, the Secretary of the Treasury shall develop—

(1) sample language for inclusion in a form for the spousal consent required under section 417(a)(2) of the Internal Revenue Code of 1986 and section 205(c)(2) of the Employee Retirement Income Security Act of 1974 which—

(A) is written in a manner calculated to be understood by the average person, and

(B) discloses in plain form—

(i) whether the waiver to which the spouse consents is irrevocable, and

- (ii) whether such waiver may be revoked by a qualified domestic relations order, and
- (2) sample language for inclusion in a form for a qualified domestic relations order described in section 414(p)(1)(A) of such Code and section 206(d)(3)(B)(i) of such Act which—

(A) meets the requirements contained in such sections, and

(B) the provisions of which focus attention on the need to consider the treatment of any lump sum payment, qualified joint and survivor annuity, or qualified preretirement survivor annuity.

(b) **PUBLICITY.**—The Secretary of the Treasury shall include publicity for the sample language developed under subsection (a) in the pension outreach efforts undertaken by the Secretary.

**SEC. 1458. TREATMENT OF LENGTH OF SERVICE AWARDS TO VOLUNTEERS PERFORMING FIRE FIGHTING OR PREVENTION SERVICES, EMERGENCY MEDICAL SERVICES, OR AMBULANCE SERVICES.**

(a) **IN GENERAL.**—Paragraph (11) of section 457(e) (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended to read as follows:

“(11) **CERTAIN PLANS EXCLUDED.**—

“(A) **IN GENERAL.**—The following plans shall be treated as not providing for the deferral of compensation:

“(i) Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan.

“(ii) Any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by such volunteers.

“(B) **SPECIAL RULES APPLICABLE TO LENGTH OF SERVICE AWARD PLANS.**—

“(i) **BONA FIDE VOLUNTEER.**—An individual shall be treated as a bona fide volunteer for purposes of subparagraph (A)(ii) if the only compensation received by such individual for performing qualified services is in the form of—

“(I) reimbursement for (or a reasonable allowance for) reasonable expenses incurred in the performance of such services, or

“(II) reasonable benefits (including length of service awards), and nominal fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

“(ii) **LIMITATION ON ACCRUALS.**—A plan shall not be treated as described in subparagraph (A)(ii) if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer exceeds \$3,000.

“(C) **QUALIFIED SERVICES.**—For purposes of this paragraph, the term ‘qualified services’ means fire fighting and prevention services, emergency medical services, and ambulance services.”.

(b) **EXEMPTION FROM SOCIAL SECURITY TAXES.**—

(1) Subsection (a)(5) of section 3121, as amended by section 1421, is amended by striking “(or)” at the end of subparagraph (G), by inserting “or” at the end of subparagraph (H), and by adding at the end the following new subparagraph:

“(I) under a plan described in section 457(e)(11)(A)(ii) and maintained by an eligible employer (as defined in section 457(e)(1)).”

42 USC 409.

(2) Section 209(a)(4) of the Social Security Act is amended by inserting “; or (K) under a plan described in section 457(e)(11)(A)(ii) of the Internal Revenue Code of 1986 and maintained by an eligible employer (as defined in section 457(e)(1) of such Code)” before the semicolon at the end thereof.

(c) EFFECTIVE DATE.—

26 USC 457 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to accruals of length of service awards after December 31, 1996.

26 USC 3121  
note.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1996.

**SEC. 1459. ALTERNATIVE NONDISCRIMINATION RULES FOR CERTAIN PLANS THAT PROVIDE FOR EARLY PARTICIPATION.**

(a) CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards), as amended by section 1433(d)(1) of this Act, is amended by adding at the end the following new subparagraph:

“(F) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a cash or deferred arrangement meets the requirements of subparagraph (A)(i), the employer may, in determining whether the arrangement meets the requirements of subparagraph (A)(ii), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).”

(b) MATCHING CONTRIBUTIONS.—Paragraph (5) of section 401(m) (relating to employees taken into consideration) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a plan meets the requirements of section 410(b), the employer may, in determining whether the plan meets the requirements of paragraph (2), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).”

26 USC 401 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1998.

**SEC. 1460. CLARIFICATION OF APPLICATION OF ERISA TO INSURANCE COMPANY GENERAL ACCOUNTS.**

(a) IN GENERAL.—Section 401 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) is amended by adding at the end the following new subsection:

Proposed  
regulations.

“(c)(1)(A) Not later than June 30, 1997, the Secretary shall issue proposed regulations to provide guidance for the purpose of determining, in cases where an insurer issues 1 or more policies to or for the benefit of an employee benefit plan (and such policies are supported by assets of such insurer’s general account), which

assets held by the insurer (other than plan assets held in its separate accounts) constitute assets of the plan for purposes of this part and section 4975 of the Internal Revenue Code of 1986 and to provide guidance with respect to the application of this title to the general account assets of insurers.

“(B) The proposed regulations under subparagraph (A) shall be subject to public notice and comment until September 30, 1997.

“(C) The Secretary shall issue final regulations providing the guidance described in subparagraph (A) not later than December 31, 1997.

Regulations.

“(D) Such regulations shall only apply with respect to policies which are issued by an insurer on or before December 31, 1998, to or for the benefit of an employee benefit plan which is supported by assets of such insurer’s general account. With respect to policies issued on or before December 31, 1998, such regulations shall take effect at the end of the 18-month period following the date on which such regulations become final.

“(2) The Secretary shall ensure that the regulations issued under paragraph (1)—

“(A) are administratively feasible, and

“(B) protect the interests and rights of the plan and of its participants and beneficiaries (including meeting the requirements of paragraph (3)).

“(3) The regulations prescribed by the Secretary pursuant to paragraph (1) shall require, in connection with any policy issued by an insurer to or for the benefit of an employee benefit plan to the extent that the policy is not a guaranteed benefit policy (as defined in subsection (b)(2)(B))—

“(A) that a plan fiduciary totally independent of the insurer authorize the purchase of such policy (unless such purchase is a transaction exempt under section 408(b)(5)),

“(B) that the insurer describe (in such form and manner as shall be prescribed in such regulations), in annual reports and in policies issued to the policyholder after the date on which such regulations are issued in final form pursuant to paragraph (1)(C)—

“(i) a description of the method by which any income and expenses of the insurer’s general account are allocated to the policy during the term of the policy and upon the termination of the policy, and

“(ii) for each report, the actual return to the plan under the policy and such other financial information as the Secretary may deem appropriate for the period covered by each such annual report,

“(C) that the insurer disclose to the plan fiduciary the extent to which alternative arrangements supported by assets of separate accounts of the insurer (which generally hold plan assets) are available, whether there is a right under the policy to transfer funds to a separate account and the terms governing any such right, and the extent to which support by assets of the insurer’s general account and support by assets of separate accounts of the insurer might pose differing risks to the plan, and

“(D) that the insurer manage those assets of the insurer which are assets of such insurer’s general account (irrespective of whether any such assets are plan assets) with the care, skill, prudence, and diligence under the circumstances then



prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, taking into account all obligations supported by such enterprise.

"(4) Compliance by the insurer with all requirements of the regulations issued by the Secretary pursuant to paragraph (1) shall be deemed compliance by such insurer with sections 404, 406, and 407 with respect to those assets of the insurer's general account which support a policy described in paragraph (3).

"(5)(A) Subject to subparagraph (B), any regulations issued under paragraph (1) shall not take effect before the date on which such regulations become final.

"(B) No person shall be subject to liability under this part or section 4975 of the Internal Revenue Code of 1986 for conduct which occurred before the date which is 18 months following the date described in subparagraph (A) on the basis of a claim that the assets of an insurer (other than plan assets held in a separate account) constitute assets of the plan, except—

"(i) as otherwise provided by the Secretary in regulations intended to prevent avoidance of the regulations issued under paragraph (1), or

"(ii) as provided in an action brought by the Secretary pursuant to paragraph (2) or (5) of section 502(a) for a breach of fiduciary responsibilities which would also constitute a violation of Federal or State criminal law.

The Secretary shall bring a cause of action described in clause (ii) if a participant, beneficiary, or fiduciary demonstrates to the satisfaction of the Secretary that a breach described in clause (ii) has occurred.

"(6) Nothing in this subsection shall preclude the application of any Federal criminal law.

"(7) For purposes of this subsection, the term 'policy' includes a contract."

29 USC 1101  
note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on January 1, 1975.

(2) CIVIL ACTIONS.—The amendment made by this section shall not apply to any civil action commenced before November 7, 1995.

#### SEC. 1461. SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.

(a) IN GENERAL.—Section 414(e) (defining church plan) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.—

"(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

"(i) IN GENERAL.—An employee of a church or a convention or association of churches shall include a duly ordained, commissioned, or licensed minister of a church who, in connection with the exercise of his or her ministry—

"(I) is a self-employed individual (within the meaning of section 401(c)(1)(B)), or

“(II) is employed by an organization other than an organization described in section 501(c)(3).

“(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—

“(I) SELF-EMPLOYED.—A minister described in clause (i)(I) shall be treated as his or her own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

“(II) OTHERS.—A minister described in clause (i)(II) shall be treated as employed by an organization described in section 501(c)(3) and exempt from tax under section 501(a).

“(B) SPECIAL RULES FOR APPLYING SECTION 403(b) TO SELF-EMPLOYED MINISTERS.—In the case of a minister described in subparagraph (A)(i)(I)—

“(i) the minister’s includible compensation under section 403(b)(3) shall be determined by reference to the minister’s earned income (within the meaning of section 401(c)(2)) from such ministry rather than the amount of compensation which is received from an employer, and

“(ii) the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) with respect to such ministry shall be included for purposes of section 403(b)(4).

“(C) EFFECT ON NON-DENOMINATIONAL PLANS.—If a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of this section) and in the exercise of such ministry is employed by an employer not eligible to participate in such church plan, then such employer may exclude such minister from being treated as an employee of such employer for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410 to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)). The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of, and prevent the abuse of, this subparagraph.

Regulations.

“(D) COMPENSATION TAKEN INTO ACCOUNT ONLY ONCE.—If any compensation is taken into account in determining the amount of any contributions made to, or benefits to be provided under, any church plan, such compensation shall not also be taken into account in determining the amount of any contributions made to, or benefits to be provided under, any other stock bonus, pension, profit-sharing, or annuity plan which is not a church plan.”.

(b) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—Section 404(a) (relating to deduction for contributions of an employer to an employees’ trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

“(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—In the case of contributions made by a minister described in section 414(e)(5) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions—

“(A) shall be treated as made to a trust which is exempt from tax under section 501(a) and which is part of a plan which is described in section 401(a), and

“(B) shall be deductible under this subsection to the extent such contributions do not exceed the limit on elective deferrals under section 402(g), the exclusion allowance under section 403(b)(2), or the limit on annual additions under section 415.

For purposes of this paragraph, all plans in which the minister is a participant shall be treated as one plan.”

26 USC 404 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

**SEC. 1462. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE FOR PRE-ERISA RULES FOR CHURCH PLANS.**

(a) IN GENERAL.—Section 414(q) (defining highly compensated employee), as amended by section 1431(c)(1)(A) of this Act, is amended by adding at the end the following new paragraph:

“(7) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES UNDER PRE-ERISA RULES FOR CHURCH PLANS.—In the case of a church plan (as defined in subsection (e)), no employee shall be considered an officer, a person whose principal duties consist of supervising the work of other employees, or a highly compensated employee for any year unless such employee is a highly compensated employee under paragraph (1) for such year.”

26 USC 414 note.

(b) SAFEHARBOR AUTHORITY.—The Secretary of the Treasury may design nondiscrimination and coverage safe harbors for church plans.

26 USC 414 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1996.

**SEC. 1463. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.**

(a) IN GENERAL.—The last sentence of section 72(f) is amended by inserting “, or to the extent such credits are attributable to services performed as a foreign missionary (within the meaning of section 403(b)(2)(D)(iii))” before the last period.

26 USC 72 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 1464. WAIVER OF EXCISE TAX ON FAILURE TO PAY LIQUIDITY SHORTFALL.**

(a) IN GENERAL.—Section 4971(f) (relating to failure to pay liquidity shortfall) is amended by adding at the end the following new paragraph:

“(4) WAIVER BY SECRETARY.—If the taxpayer establishes to the satisfaction of the Secretary that—

“(A) the liquidity shortfall described in paragraph (1) was due to reasonable cause and not willful neglect, and

“(B) reasonable steps have been taken to remedy such liquidity shortfall,

the Secretary may waive all or part of the tax imposed by this subsection.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the amendment made by clause (ii) of section 751(a)(9)(B) of the Retirement Protection Act of 1994 (108 Stat. 5020).

26 USC 4971  
note.

**SEC. 1465. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

26 USC 401 note.

If any amendment made by this subtitle requires an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1998, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan or contract is operated in accordance with the requirements of such amendment, and

(2) such amendment applies retroactively to such period. In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting “2000” for “1998”.

## Subtitle E—Foreign Simplification

**SEC. 1501. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.**

(a) **IN GENERAL.**—

(1) **REPEAL OF INCLUSION.**—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking “; and” at the end of subparagraph (B) and inserting a period, and by adding “and” at the end of subparagraph (A).

(2) **REPEAL OF INCLUSION AMOUNT.**—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Subparagraph (G) of section 904(d)(3), as amended by section 1703(i)(1), is amended by striking “subparagraph (B) or (C) of section 951(a)(1)” and inserting “section 951(a)(1)(B)”.

(2) Paragraph (1) of section 956(b) is amended to read as follows:

“(1) **APPLICABLE EARNINGS.**—For purposes of this section, the term ‘applicable earnings’ means, with respect to any controlled foreign corporation, the sum of—

“(A) the amount (not including a deficit) referred to in section 316(a)(1), and

“(B) the amount referred to in section 316(a)(2), but reduced by distributions made during the taxable year and by earnings and profits described in section 959(c)(1).”.

(3) Paragraph (3) of section 956(b) is amended to read as follows:

“(3) **SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.**—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

“(A) the determination of any United States shareholder’s pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such share-

holder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

“(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

“(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.”.

(4) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding “or” at the end of paragraph (1), by striking “or” at the end of paragraph (2), and by striking paragraph (3).

(5) Subsection (a) of section 959 is amended by striking “paragraphs (2) and (3)” in the last sentence and inserting “paragraph (2)”.

(6) Subsection (c) of section 959 is amended by adding at the end the following flush sentence:

“References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.”.

(7) Paragraph (1) of section 959(f) is amended to read as follows:

“(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).”.

(8) Paragraph (2) of section 959(f) is amended by striking “subparagraphs (B) and (C) of section 951(a)(1)” and inserting “section 951(a)(1)(B)”.

(9) Subsection (b) of section 989 is amended by striking “subparagraph (B) or (C) of section 951(a)(1)” and inserting “section 951(a)(1)(B)”.

(10) Paragraph (9) of section 1297(b) is amended by striking “subparagraph (B) or (C) of section 951(a)(1)” and inserting “section 951(a)(1)(B)”.

(11) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1297 are each amended by striking “or section 956A”.

(12) Subparagraph (G) of section 904(d)(3) is amended by striking “subparagraph (B) or (C) of section 951(a)(1)” and inserting “section 951(a)(1)(B)”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

**Subtitle F—Revenue Offsets****PART I—GENERAL PROVISIONS****SEC. 1601. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.**

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

“(j) TERMINATION.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

“(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—

“(A) ECONOMIC ACTIVITY CREDIT.—In the case of an existing credit claimant—

“(i) with respect to a possession other than Puerto Rico, and

“(ii) to which subsection (a)(4)(B) does not apply, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

“(B) SPECIAL RULE FOR REDUCED CREDIT.—

“(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 1998.

“(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

“(C) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

“For economic activity credit for Puerto Rico, see section 30A.

“(3) ADDITIONAL RESTRICTED CREDIT.—

“(A) IN GENERAL.—In the case of an existing credit claimant—

“(i) the credit under subsection (a)(1)(A) shall be allowed for the period beginning with the first taxable year after the last taxable year to which subparagraph (A) or (B) of paragraph (2), whichever is appropriate, applied and ending with the last taxable year beginning before January 1, 2006, except that

“(ii) the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for any such taxable year shall not exceed the adjusted base period income of such claimant.

“(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

“(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

“(A) IN GENERAL.—The term ‘adjusted base period income’ means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

“(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

“(i) the possession income of such corporation for such base period year, plus

“(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.

“(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—

“(i) the CPI for 1995, exceeds

“(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

“(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

“(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;

“(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;

“(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;

“(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and

“(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.

“(5) BASE PERIOD YEAR.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘base period year’ means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—

“(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

“(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

“(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

“(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most

recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

"(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

"(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but

"(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.

"(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.

"(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

"(I) only the last taxable year of the corporation ending in calendar year 1992, or

"(II) a deemed taxable year which includes the first ten months of calendar year 1995.

"(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

"(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

"(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

"(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means, with respect to any possession, the income referred to in subsection (a)(1)(A) determined with respect to that possession. In no event shall possession income be treated as being less than zero.

"(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection



shall be made with such annualizations as the Secretary shall prescribe.

“(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

“(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall apply to such claimant with respect to such applicable possession for taxable years beginning after December 31, 1995, and before January 1, 2006.

“(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term ‘applicable possession’ means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘existing credit claimant’ means a corporation—

“(i)(I) which was actively conducting a trade or business in a possession on October 13, 1995, and

“(II) with respect to which an election under this section is in effect for the corporation’s taxable year which includes October 13, 1995, or

“(ii) which acquired all of the assets of a trade or business of a corporation which—

“(I) satisfied the requirements of subclause (I) of clause (i) with respect to such trade or business, and

“(II) satisfied the requirements of subclause (II) of clause (i).

“(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business (other than in an acquisition described in subparagraph (A)(ii)), such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

“(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

“(10) SEPARATE APPLICATION TO EACH POSSESSION.—For purposes of determining—

“(A) whether a taxpayer is an existing credit claimant, and

“(B) the amount of the credit allowed under this section,

this subsection (and so much of this section as relates to this subsection) shall be applied separately with respect to each possession.”.

(b) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

**“SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.**

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—Except as otherwise provided in this section, if the conditions of both paragraph (1) and paragraph (2) of subsection (b) are satisfied with respect to a qualified domestic corporation, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the taxable income, from sources without the United States, from—

“(A) the active conduct of a trade or business within Puerto Rico, or

“(B) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business.

In the case of any taxable year beginning after December 31, 2001, the aggregate amount of taxable income taken into account under the preceding sentence (and in applying subsection (d)) shall not exceed the adjusted base period income of such corporation, as determined in the same manner as under section 936(j).

“(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term ‘qualified domestic corporation’ means a domestic corporation—

“(A) which is an existing credit claimant with respect to Puerto Rico, and

“(B) with respect to which section 936(a)(4)(B) does not apply for the taxable year.

“(3) SEPARATE APPLICATION.—For purposes of determining—

“(A) whether a taxpayer is an existing credit claimant with respect to Puerto Rico, and

“(B) the amount of the credit allowed under this section,

this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico.

“(b) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in subsection (a) are—

“(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of the qualified domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession (determined without regard to section 904(f)).

“(2) TRADE OR BUSINESS.—If 75 percent or more of the gross income of the qualified domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession.

“(c) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by subsection (a) shall not be allowed against the tax imposed by—

“(1) section 59A (relating to environmental tax),

“(2) section 531 (relating to the tax on accumulated earnings),

“(3) section 541 (relating to personal holding company tax), or

“(4) section 1351 (relating to recoveries of foreign expropriation losses).

“(d) LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed the sum of the following amounts:

“(1) 60 percent of the sum of—

“(A) the aggregate amount of the qualified domestic corporation's qualified possession wages for such taxable year, plus

“(B) the allocable employee fringe benefit expenses of the qualified domestic corporation for such taxable year.

“(2) The sum of—

“(A) 15 percent of the depreciation allowances for the taxable year with respect to short-life qualified tangible property,

“(B) 40 percent of the depreciation allowances for the taxable year with respect to medium-life qualified tangible property, and

“(C) 65 percent of the depreciation allowances for the taxable year with respect to long-life qualified tangible property.

“(3) If the qualified domestic corporation does not have an election to use the method described in section 936(h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of the qualified possession income taxes for the taxable year allocable to nonsheltered income.

“(e) ADMINISTRATIVE PROVISIONS.—For purposes of this title—

“(1) the provisions of section 936 (including any applicable election thereunder) shall apply in the same manner as if the credit under this section were a credit under section 936(a)(1)(A) for a domestic corporation to which section 936(a)(4)(A) applies,

“(2) the credit under this section shall be treated in the same manner as the credit under section 936, and

“(3) a corporation to which this section applies shall be treated in the same manner as if it were a corporation electing the application of section 936.

“(f) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.

“(g) APPLICATION OF SECTION.—This section shall apply to taxable years beginning after December 31, 1995, and before January 1, 2006.”

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 55(c) is amended by striking “and the section 936 credit allowable under section 27(b)” and inserting “, the section 936 credit allowable under section 27(b), and the Puerto Rican economic activity credit under section 30A”.

(B) Subclause (I) of section 56(g)(4)(C)(ii) is amended—

(i) by inserting “30A,” before “936”, and

(ii) by striking “and (i)” and inserting “, (i), and (j)”.

(C) Clause (iii) of section 56(g)(4)(C) is amended by adding at the end the following new subclause:

“(VI) APPLICATION TO SECTION 30A CORPORATIONS.—References in this clause to section 936 shall be treated as including references to section 30A.”.

(D) Subsection (b) of section 59 is amended by striking “section 936,” and all that follows and inserting “section 30A or 936, alternative minimum taxable income shall not include any income with respect to which a credit is determined under section 30A or 936.”.

(E) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 30A. Puerto Rican economic activity credit.”.

(F)(i) The heading for subpart B of part IV of subchapter A of chapter 1 is amended to read as follows:

**“Subpart B—Other Credits”.**

(ii) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart B and inserting the following new item:

“Subpart B. Other credits.”.

**(c) EFFECTIVE DATE.—**

26 USC 30A note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SPECIAL RULE FOR QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—The amendments made by this section shall not apply to qualified possession source investment income received or accrued before July 1, 1996, without regard to the taxable year in which received or accrued.

(3) SPECIAL TRANSITION RULE FOR PAYMENT OF ESTIMATED TAX INSTALLMENT.—In determining the amount of any installment due under section 6655 of the Internal Revenue Code of 1986 after the date of the enactment of this Act and before October 1, 1996, only  $\frac{1}{2}$  of any increase in tax (for the taxable year for which such installment is made) by reason of the amendments made by subsections (a) and (b) shall be taken into account. Any reduction in such installment by reason of the preceding sentence shall be recaptured by increasing the next required installment for such year by the amount of such reduction.

**SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.**

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

**(b) CONFORMING AMENDMENTS.—**

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

“(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

“(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.”.

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

“(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

“(2) both such employer or plan administrator,”.

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 133.

26 USC 133 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after the date of the enactment of this Act.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after the date of the enactment of this Act to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term “securities acquisition loan” includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

(3) EXCEPTION.—Any loan made pursuant to a binding written contract in effect before June 10, 1996, and at all times thereafter before such loan is made, shall be treated

for purposes of paragraphs (1) and (2) as a loan made on or before the date of the enactment of this Act.

**SEC. 1603. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.**

(a) **GENERAL RULE.**—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

“(17) **TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.**—

“(A) **IN GENERAL.**—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

“(B) **EXCEPTION.**—

“(i) **IN GENERAL.**—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

“(I) such organization,

“(II) an affiliate of such organization which is exempt from tax under section 501(a), or

“(III) a director or officer of, or an individual who (directly or indirectly) performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services in connection with such organization or affiliate.

“(ii) **AFFILIATE.**—For purposes of this subparagraph—

“(I) **IN GENERAL.**—The determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

“(II) **SPECIAL RULE.**—Two or more organizations (and any affiliates of such organizations) shall be treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or organizations described in section 170(b)(1)(A)(iii) and participate in an insurance arrangement that provides for any profits from such arrangement to be returned to the policyholders in their capacity as such.

“(C) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities.”.

26 USC 512 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

**SEC. 1604. DEPRECIATION UNDER INCOME FORECAST METHOD.**

(a) **GENERAL RULE.**—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) **DEPRECIATION UNDER INCOME FORECAST METHOD.**—

“(1) **IN GENERAL.**—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

“(A) the income from the property to be taken into account in determining the depreciation deduction under such method shall be equal to the amount of income earned in connection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

“(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

“(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

“(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

“(2) **LOOK-BACK METHOD.**—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

“(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income from such property)—

“(i) the actual income earned in connection with such property for periods before the close of the recomputation year, and

“(ii) an estimate of the future income to be earned in connection with such property for periods after the recomputation year and before the close of the 10th taxable year following the taxable year in which the property was placed in service,

“(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

“(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a

separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

“(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which had a cost basis of \$100,000 or less.

“(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term ‘recomputation year’ means, with respect to any property, the 3d and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income earned in connection with the property for the period before the close of such 3d or 10th taxable year is within 10 percent of the income earned in connection with the property for such period which was taken into account under paragraph (1)(A).

“(5) SPECIAL RULES.—

“(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

“(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

“(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

“(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is 1 or more episodes in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

“(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

“(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

“(C) SPECIAL RULES FOR FINANCIAL EXPLOITATION OF CHARACTERS, ETC.—For purposes of this subsection, in the case of television and motion picture films, the income from the property shall include income from the exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent that such income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer.

“(D) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1)



for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

“(E) DETERMINATIONS.—For purposes of paragraph (2), determinations of the amount of income earned in connection with any property shall be made in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

“(F) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.”

26 USC 167 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

(3) UNDERPAYMENTS OF INCOME TAX.—No addition to tax shall be made under section 6662 of such Code as a result of the application of subsection (d) of that section (relating to substantial understatements of income tax) with respect to any underpayment of income tax for any taxable year ending before such date of enactment, to the extent such underpayment was created or increased by the amendments made by subsection (a).

**SEC. 1605. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.**

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

“(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;”

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: “For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.”

(c) APPLICATION OF PRIOR LAW FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) APPLICATION OF PRIOR LAW IN CERTAIN CASES.—The phrase ‘(other than punitive damages)’ shall not apply to punitive damages awarded in a civil action—

“(1) which is a wrongful death action, and

“(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification

after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

26 USC 104 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

**SEC. 1606. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.**

(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for non-taxable purposes or resold during the taxable year (determined without regard to section 6427(k))."

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g)", and

(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after the date of the enactment of this Act.

26 USC 34 note.

**SEC. 1607. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.**

(a) EXTENSION.—Subsection (f) of section 4001 is amended by striking "1999" and inserting "2002".

(b) PHASEDOWN.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PHASEDOWN.—For sales occurring in calendar years after 1995 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:

"If the calendar year is:	The percentage is:
1996 .....	9 percent
1997 .....	8 percent
1998 .....	7 percent
1999 .....	6 percent
2000 .....	5 percent
2001 .....	4 percent
2002 .....	3 percent

26 USC 4001  
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to sales occurring after the date which is 7 days after the date of the enactment of this Act.

**SEC. 1608. TERMINATION OF FUTURE TAX-EXEMPT BOND FINANCING FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.**

(a) **IN GENERAL.**—Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

“(3) **TERMINATION OF FUTURE FINANCING.**—For purposes of this section, no bond may be issued as part of an issue described in subsection (a)(8) with respect to a facility for the local furnishing of electric energy or gas on or after the date of the enactment of this paragraph unless—

“(A) the facility will—

“(i) be used by a person who is engaged in the local furnishing of that energy source on January 1, 1997, and

“(ii) be used to provide service within the area served by such person on January 1, 1997, (or within a county or city any portion of which is within such area), or

“(B) the facility will be used by a successor in interest to such person for the same use and within the same service area as described in subparagraph (A).

“(4) **ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN FURNISHERS.**—

“(A) **IN GENERAL.**—In the case of a facility financed with bonds issued before the date of the enactment of this paragraph which would cease to be tax-exempt by reason of the failure to meet the local furnishing requirement of subsection (a)(8) as a result of a service area expansion, such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if the person engaged in such local furnishing by such facility makes an election described in subparagraph (B).

“(B) **ELECTION.**—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person (or its predecessor in interest) agrees that—

“(i) such election is made with respect to all facilities for the local furnishing of electric energy or gas, or both, by such person,

“(ii) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to all such facilities of such person,

“(iii) any expansion of the service area—

“(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

“(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

“(iv) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

“(I) the earliest date on which such bonds may be redeemed, or

“(II) the date of the election.

“(C) RELATED PERSONS.—For purposes of this paragraph, the term ‘person’ includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.”

(b) NO INFERENCE WITH RESPECT TO OUTSTANDING BONDS.— 26 USC 142 note.  
The use of the term “person” in section 142(f)(3) of the Internal Revenue Code of 1986, as added by subsection (a), shall not be construed to affect the tax-exempt status of interest on any bonds issued before the date of the enactment of this Act.

**SEC. 1609. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.**

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended to read as follows:

“(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

“(i) after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

“(ii) after December 31, 1996.”

(2) Section 4081(d) is amended—

(A) by adding at the end the following new paragraph:

“(3) AVIATION GASOLINE.—After December 31, 1996, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.”, and

(B) by inserting “(other than the tax on aviation gasoline)” after “subsection (a)(2)(A)”.

(3) Section 4041(c)(5) is amended by inserting “, and during the period beginning on the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1996” after “December 31, 1995”.

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking “January 1, 1996” and inserting “January 1, 1996, and to transportation beginning on or after the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996 and before January 1, 1997”.

(c) TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking “January 1, 1996” each place it appears and inserting “January 1, 1997”.

(2) Paragraph (3) of section 9502(f) is amended to read as follows:

“(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

“(A) taxes imposed after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

“(B) taxes imposed after December 31, 1996.”

(3) Subsection (d) of section 9502 is amended by adding at the end the following new paragraph:

“(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.”.

(d) EXCISE TAX EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY AIR AMBULANCE.—Subsection (f) of section 4261 (relating to imposition of tax on transportation by air) is amended to read as follows:

“(f) EXEMPTION FOR AIR AMBULANCES PROVIDING CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation for the purpose of providing emergency medical services—

“(1) by helicopter, or

“(2) by a fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services.”.

(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—Subsection (e) of section 4261 is amended by adding at the end the following new sentence: “In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.”.

(f) FLIGHT-BY-FLIGHT DETERMINATION OF AVAILABILITY FOR HIRE FOR AFFILIATED GROUPS.—Section 4282 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b) AVAILABILITY FOR HIRE.—For purposes of subsection (a), the determination of whether an aircraft is available for hire by persons who are not members of an affiliated group shall be made on a flight-by-flight basis.”

(g) CONSOLIDATION OF TAXES ON AVIATION GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

“(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

“(ii) in the case of aviation gasoline, 19.3 cents per gallon, and”.

(2) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) AVIATION GASOLINE.—On and after January 1, 1997, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon.”

(3) REPEAL OF RETAIL LEVEL TAX.—

(A) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(B) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking “paragraphs (1) and (2)” and inserting “paragraph (1)”.

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(k) is amended by adding “and” at the end of subparagraph (A), by striking “, and” at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(B) Paragraph (1) of section 4081(d) is amended by striking “each rate of tax specified in subsection (a)(2)(A)” and inserting “the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)”.

(C) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking “section 4041(c)(4)” and inserting “section 4041(c)(2)”.

(D) Paragraph (2) of section 9502(b) is amended by striking “14 cents” and inserting “15 cents”.

(h) FLOOR STOCKS TAXES ON AVIATION FUEL.—

26 USC 4091  
note.

(1) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before the tax-increase date described in paragraph (3)(A)(i) and which is held on such date by any person, there is hereby imposed a floor stocks tax of 17.5 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on a tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) with respect to any tax-increase date shall be paid on or before the first day of the 7th month beginning after such tax-increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX INCREASE DATE.—The term “tax-increase date” means the date which is 7 calendar days after the date of the enactment of this Act.

(B) AVIATION FUEL.—The term “aviation fuel” has the meaning given such term by section 4093 of such Code.

(C) HELD BY A PERSON.—Aviation fuel shall be considered as “held by a person” if title thereto has passed to such person (whether or not delivery to the person has been made).

(D) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person on any tax-increase date exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased on or after such tax-increase date for such use.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on any tax-increase date by any person if the aggregate amount of aviation fuel

held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term “controlled group” has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 7th calendar day after the date of the enactment of this Act, except that the amendments made by subsection (b) shall not apply to any amount paid before such date.

**SEC. 1610. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.**

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

“(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

“(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

“(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

“(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon

such conversion under the law applicable to the year in which such conversion was made.

“(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

“(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

“(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

“(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

“(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

“(i) first to property which is similar or related in service or use to the converted property,

“(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

“(iii) then to other property.

“(D) SPECIAL RULES.—

“(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

“(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after the date of the enactment of this Act. 26 USC 1033 note.

#### SEC. 1611. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking “or” at the end of subparagraph (A), by striking “and” at the end of subparagraph (B) and



inserting “or”, and by inserting after subparagraph (B) the following new subparagraph:

“(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and”.

(2) Paragraph (3) of section 817(d) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, or”, and by inserting after subparagraph (B) the following new subparagraph:

“(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.”.

26 USC 817 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

#### **SEC. 1612. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.**

(a) **GENERAL RULE.**—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

##### **“SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.**

“(a) **COMPUTATION OF RESERVES.**—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

“(b) **SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.**—

“(1) **IN GENERAL.**—In the case of any life insurance company, for purposes of this subtitle—

“(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

“(B) If any segregated asset is held by such company as of the close of any taxable year—

“(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

“(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

“(2) **SEGREGATED ASSET.**—For purposes of paragraph (1), the term ‘segregated asset’ means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

“(c) **SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.**—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

“(d) **MODIFIED GUARANTEED CONTRACT DEFINED.**—For purposes of this section, the term ‘modified guaranteed contract’ means a contract not described in section 817—

“(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

“(2) which—

“(A) provides for the payment of annuities,

“(B) is a life insurance contract, or

“(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

“(3) for which reserves are valued at market for annual statement purposes, and

“(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

“(e) REGULATIONS.—The Secretary may prescribe regulations—

“(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

“(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

“(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

“(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

“(5) as may be necessary or appropriate to carry out the purposes of this section.”

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

“Sec. 817A. Special rules for modified guaranteed contracts.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—Except as provided in paragraph (3), in the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986, shall be taken into account as ordinary income by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

(3) LIMITATION ON LOSS RECOGNITION AND ON DEDUCTION FOR RESERVE INCREASES.—

(A) LIMITATION ON LOSS RECOGNITION.—

26 USC 817A  
note.

(i) **IN GENERAL.**—The aggregate loss recognized by reason of the application of section 481 of the Internal Revenue Code of 1986 with respect to section 817A(b) of such Code (as added by this section) for the first taxable year of the taxpayer beginning after December 31, 1995, shall not exceed the amount included in the taxpayer's gross income for such year by reason of the excess (if any) of—

(I) the amount of life insurance reserves as of the close of the prior taxable year, over

(II) the amount of such reserves as of the beginning of such first taxable year,  
to the extent such excess is attributable to subsection (a) of such section 817A. Notwithstanding the preceding sentence, the adjusted basis of each segregated asset shall be determined as if all such losses were recognized.

(ii) **DISALLOWED LOSS ALLOWED OVER PERIOD.**—The amount of the loss which is not allowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(B) **LIMITATION ON DEDUCTION FOR INCREASE IN RESERVES.**—

(i) **IN GENERAL.**—The deduction allowed for the first taxable year of the taxpayer beginning after December 31, 1995, by reason of the application of section 481 of such Code with respect to section 817A(a) of such Code (as added by this section) shall not exceed the aggregate built-in gain recognized by reason of the application of such section 481 with respect to section 817A(b) of such Code (as added by this section) for such first taxable year.

(ii) **DISALLOWED DEDUCTION ALLOWED OVER PERIOD.**—The amount of the deduction which is disallowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(iii) **BUILT-IN GAIN.**—For purposes of this subparagraph, the built-in gain on an asset is the amount equal to the excess of—

(I) the fair market value of the asset as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1995, over

(II) the adjusted basis of such asset as of such time.

#### **SEC. 1613. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.**

(a) **TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.**—

(1) **IN GENERAL.**—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

“(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

“(1) GENERAL RULE.—For purposes of this section, the term ‘contribution to the capital of the taxpayer’ includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

“(A) such amount is a contribution in aid of construction,

“(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

“(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer’s rate base for ratemaking purposes.

“(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

“(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

“(i) which is the property for which the contribution was made or is of the same type as such property, and

“(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

“(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

“(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term ‘contribution in aid of construction’ shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

“(B) PREDOMINANTLY.—The term ‘predominantly’ means 80 percent or more.

“(C) REGULATED PUBLIC UTILITY.—The term ‘regulated public utility’ has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

“(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

“(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

“(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

“(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

“(B) the taxpayer’s intention not to make the expenditures referred to in such subparagraph, or

“(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2), and

“(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.”.

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting “except as provided in subsection (c),” before “the term”.

26 USC 118 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after June 12, 1996.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

“(F) Water utility property described in subsection (e)(5).”.

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

“Water utility property ..... 25 years”.

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

“(5) WATER UTILITY PROPERTY.—The term ‘water utility property’ means property—

“(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

“(B) any municipal sewer.”.

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting “or water utility property” after “tunnel bore”.

26 USC 168 note.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after June 12, 1996, other than property placed in service pursuant to

a binding contract in effect before June 10, 1996, and at all times thereafter before the property is placed in service.

**SEC. 1614. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.**

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

“(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer’s election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

“(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

“(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

“(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

“(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer’s agreements with the Secretary of Education in respect of student loans;

“(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

“(v) such transferee corporation is not exempt from tax under this chapter.

“(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(C)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

“(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

“(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

“(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

“(D) SENIOR STOCK.—For purposes of this paragraph, the term ‘senior stock’ means stock—

“(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

“(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

“(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

“(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

“(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

“(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

“(E) INDEPENDENT MEMBER.—The term ‘independent member’ means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

“(i) for services performed in connection with such transferee corporation, or

“(ii) for services as a member of the board of directors or as an officer of such transferee corporation. For purposes of clause (ii), the term ‘officer’ includes any individual having powers or responsibilities similar to those of officers.

“(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

“(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

“(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

“(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 150 note.

**SEC. 1615. CERTAIN TAX BENEFITS DENIED TO INDIVIDUALS FAILING TO PROVIDE TAXPAYER IDENTIFICATION NUMBERS.**

(a) PERSONAL EXEMPTION.—

(1) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end the following new subsection:

“(e) IDENTIFYING INFORMATION REQUIRED.—No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 6109 is repealed.

(B) Section 6724(d)(3) is amended by adding “and” at the end of subparagraph (C), by striking subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(b) DEPENDENT CARE CREDIT.—Subsection (e) of section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

“(10) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFYING INDIVIDUALS.—No credit shall be allowed under this section with respect to any qualifying individual unless the TIN of such individual is included on the return claiming the credit.”.

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by inserting at the end the following new subparagraph:

“(H) an omission of a correct TIN required under section 21 (relating to expenses for household and dependent care services necessary for gainful employment) or section 151 (relating to allowance of deductions for personal exemptions).”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is on or after the 30th day after the date of the enactment of this Act.

(2) SPECIAL RULE FOR 1995 AND 1996.—In the case of returns for taxable years beginning in 1995 or 1996, a taxpayer shall not be required by the amendments made by this section to provide a taxpayer identification number for a child who is born after October 31, 1995, in the case of a taxable year

26 USC 21 note.



beginning in 1995 or November 30, 1996, in the case of a taxable year beginning in 1996.

**SEC. 1616. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.**

(a) **IN GENERAL.**—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

“(f) **TERMINATION OF RESERVE METHOD.**—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

“(g) **6-YEAR SPREAD OF ADJUSTMENTS.**—

“(1) **IN GENERAL.**—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

“(A) such change shall be treated as a change in a method of accounting,

“(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

“(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

“(i) shall be determined by taking into account only applicable excess reserves, and

“(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

“(2) **APPLICABLE EXCESS RESERVES.**—

“(A) **IN GENERAL.**—For purposes of paragraph (1), the term ‘applicable excess reserves’ means the excess (if any) of—

“(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer’s last taxable year beginning before January 1, 1996, over

“(ii) the lesser of—

“(I) the balance of such reserves as of the close of the taxpayer’s last taxable year beginning before January 1, 1988, or

“(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

“(B) **SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.**—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

“(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

“(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

“(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

“(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

“(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

“(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

“(ii) such taxable year shall be disregarded in determining—

“(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

“(II) the amount of such adjustment.

“(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

“(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term ‘residential loan’ means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

“(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in which such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

“(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

“(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

“(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

“(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

“(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

“(ii) no amount shall be includible in gross income by reason of such reduction.

“(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

“(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

“(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

“(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

“(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

“Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.”

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking “or to which section 593 applies”.

(6) Subparagraph (A) of section 585(a)(2) is amended by striking “other than an organization to which section 593 applies”.

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking “by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)” and inserting “by a taxpayer having a balance described in subsection (g)(2)(A)(ii)”.

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

“(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),”.

(C) The second sentence of section 593(e)(1) is amended by striking “the association or an institution that is treated as a mutual savings bank under section 591(b)” and inserting “a taxpayer having a balance described in subsection (g)(2)(A)(ii)”.

(D) The third sentence of section 593(e)(1) is amended by striking “an association” and inserting “a taxpayer having a balance described in subsection (g)(2)(A)(ii)”.

(E) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: “This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.”.

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking “Except as provided in paragraph (2), the” in paragraph (1) and inserting “The”,

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3), (5), and (6) as paragraphs (2), (3), and (4), respectively,

(C) by striking in paragraph (2) (as so redesignated) all that follows “subsection” and inserting a period, and

(D) by striking the last sentence of paragraph (4) (as so redesignated).

(11) Paragraph (3) of section 992(d) is amended by striking “or 593”.

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking “or 593”.

(14) Subsection (c) of section 1277 is amended by striking “or to which section 593 applies”.

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking “or to which section 593 applies”.

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

26 USC 593 note.

(2) SUBSECTION (b)(7)(B).—The amendments made by subsection (b)(7)(B) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

**SEC. 1617. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.**

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking “energy demand—” and all that follows and inserting “energy demand with respect to a dwelling unit.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

“(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.”.

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking “AND SPECIAL RULES” in the paragraph heading.

26 USC 136 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1996, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

**PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS**

**SEC. 1621. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.**

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

**“PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS**

“Sec. 860H. Taxation of a FASIT; other general rules.

“Sec. 860I. Gain recognition on contributions to a FASIT and in other cases.

“Sec. 860J. Non-FASIT losses not to offset certain FASIT inclusions.

“Sec. 860K. Treatment of transfers of high-yield interests to disqualified holders.

“Sec. 860L. Definitions and other special rules.

**“SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.**

“(a) **TAXATION OF FASIT.**—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).

“(b) **TAXATION OF HOLDER OF OWNERSHIP INTEREST.**—In determining the taxable income of the holder of the ownership interest in a FASIT—

“(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,

“(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to each debt instrument of the FASIT,

“(3) there shall not be taken into account any item of income, gain, or deduction allocable to a prohibited transaction, and

“(4) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.

“(c) **TREATMENT OF REGULAR INTERESTS.**—For purposes of this title—

“(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,

“(2) section 163(e)(5) shall not apply to such an interest, and

“(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

**“SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO A FASIT AND IN OTHER CASES.**

“(a) **TREATMENT OF PROPERTY ACQUIRED BY FASIT.**—

“(1) **PROPERTY ACQUIRED FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.**—If property is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT (or by a related person) gain (if any) shall be recognized to such holder (or person) in an amount equal to the excess (if any) of such property's value under subsection (d) on the date of such sale or contribution over its adjusted basis on such date.

“(2) **PROPERTY ACQUIRED OTHER THAN FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.**—Property which is acquired by a FASIT other than in a transaction to which paragraph (1) applies shall be treated—

“(A) as having been acquired by the holder of the ownership interest in the FASIT for an amount equal to the FASIT's cost of acquiring such property, and

“(B) as having been sold by such holder to the FASIT at its value under subsection (d) on such date.

“(b) **GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.**—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—

“(1) gain shall be recognized to such holder (or person) in the same manner as if such holder (or person) had sold such property at its value under subsection (d) on the earliest date such property supports such an interest, and

“(2) such property shall be treated as held by such FASIT for purposes of this part.

“(c) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

“(1) provide that gain otherwise recognized under subsection (a) or (b) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

“(2) provide such adjustments to the other provisions of this part to the extent appropriate in the context of the treatment provided under paragraph (1).

“(d) VALUATION.—For purposes of this section—

“(1) IN GENERAL.—The value of any property under this subsection shall be—

“(A) in the case of a debt instrument which is not traded on an established securities market, the sum of the present values of the reasonably expected payments under such instrument determined (in the manner provided by regulations prescribed by the Secretary)—

“(i) as of the date of the event resulting in the gain recognition under this section, and

“(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually, and

“(B) in the case of any other property, its fair market value.

“(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—

“(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and

“(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.

“(e) SPECIAL RULES.—

“(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.

“(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.

**“SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.**

“(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than the sum of—

“(1) such holder's taxable income determined solely with respect to such interests (including gains and losses from sales and exchanges of such interests), and

“(2) the excess inclusion (if any) under section 860E(a)(1) for such taxable year.

“(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

“(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

“(2) in determining taxable income for such taxable year for purposes of the second sentence of section 172(b)(2).

“(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

“(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

“(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

“(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

“(d) AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as one taxpayer for purposes of this section.

**“SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.**

“(a) GENERAL RULE.—In the case of any high-yield interest which is held by a disqualified holder—

“(1) the gross income of such holder shall not include any income (other than gain) attributable to such interest, and

“(2) amounts not includible in the gross income of such holder by reason of paragraph (1) shall be included (at the time otherwise includible under paragraph (1)) in the gross income of the most recent holder of such interest which is not a disqualified holder.

“(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of the inclusion in gross income under subsection (a).

“(c) DISQUALIFIED HOLDER.—For purposes of this section, the term ‘disqualified holder’ means any holder other than—

“(1) an eligible corporation (as defined in section 860L(a)(2)), or

“(2) a FASIT.

“(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—

“(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

“(2) CHANGE IN DEALER STATUS.—

“(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—



“(i) such dealer ceases to be a dealer in securities, or

“(ii) such dealer commences holding the high-yield interest for investment,  
there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

“(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the thirty-second day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

“(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

“(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—

“(1) IN GENERAL.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—

“(A) which is supported by any regular interest in a FASIT, and

“(B) which has an original yield to maturity which is greater than each of—

“(i) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and

“(ii) the yield to maturity to such entity on such regular interest (determined as of the date such entity acquired such interest),

there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.

Regulations.

“(2) EXCEPTION.—Paragraph (1) shall not apply to arrangements not having as a principal purpose the avoidance of the purposes of this subsection.

“SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

“(a) FASIT.—

“(1) IN GENERAL.—For purposes of this title, the terms ‘financial asset securitization investment trust’ and ‘FASIT’ mean any entity—

“(A) for which an election to be treated as a FASIT applies for the taxable year,

“(B) all of the interests in which are regular interests or the ownership interest,

“(C) which has only one ownership interest and such ownership interest is held directly by an eligible corporation,

“(D) as of the close of the third month beginning after the day of its formation and at all times thereafter, substan-

tially all of the assets of which (including assets treated as held by the entity under section 860I(b)(2)) consist of permitted assets, and

“(E) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

“(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term ‘eligible corporation’ means any domestic C corporation other than—

“(A) a corporation which is exempt from, or is not subject to, tax under this chapter,

“(B) an entity described in section 851(a) or 856(a),

“(C) a REMIC, and

“(D) an organization to which part I of subchapter T applies.

“(3) ELECTION.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

“(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT after the date of such cessation.

“(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

“(6) PERMITTED ASSETS NOT TREATED AS INTEREST IN FASIT.—Except as provided in regulations prescribed by the Secretary, any asset which is a permitted asset at the time acquired by a FASIT shall not be treated at any time as an interest in such FASIT.

“(b) INTERESTS IN FASIT.—For purposes of this part—

“(1) REGULAR INTEREST.—

“(A) IN GENERAL.—The term ‘regular interest’ means any interest which is issued by a FASIT after the startup date with fixed terms and which is designated as a regular interest if—

“(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

“(ii) interest payments (or other similar amounts), if any, with respect to such interest are determined based on a fixed rate, or, except as otherwise provided by the Secretary, at a variable rate permitted under section 860G(a)(1)(B)(i),

“(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

“(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

“(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest.

An interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may

be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

“(B) HIGH-YIELD INTERESTS.—

“(i) IN GENERAL.—The term ‘regular interest’ includes any high-yield interest.

“(ii) HIGH-YIELD INTEREST.—The term ‘high-yield interest’ means any interest which would be described in subparagraph (A) but for—

“(I) failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof, or

“(II) failing to meet the requirement of clause (ii) thereof but only if interest payments (or other similar amounts), if any, with respect to such interest consist of a specified portion of the interest payments on permitted assets and such portion does not vary during the period such interest is outstanding.

“(2) OWNERSHIP INTEREST.—The term ‘ownership interest’ means the interest issued by a FASIT after the startup day which is designated as an ownership interest and which is not a regular interest.

“(c) PERMITTED ASSETS.—For purposes of this part—

“(1) IN GENERAL.—The term ‘permitted asset’ means—

“(A) cash or cash equivalents,

“(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),

“(C) foreclosure property,

“(D) any asset—

“(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument permitted by the Secretary, and

“(ii) which is reasonably required to guarantee or hedge against the FASIT’s risks associated with being the obligor on interests issued by the FASIT,

“(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D),

“(F) any regular interest in another FASIT, and

“(G) any regular interest in a REMIC.

“(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term ‘permitted asset’ shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.

“(3) FORECLOSURE PROPERTY.—

“(A) IN GENERAL.—The term ‘foreclosure property’ means property—

“(i) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if such property were real property acquired by a real estate investment trust, and

“(ii) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

“(B) AUTHORITY TO REDUCE GRACE PERIOD.—In the case of property other than real property and other than personal property incident to real property, the Secretary may by regulation reduce for purposes of subparagraph (A) the periods otherwise applicable under paragraphs (2) and (3) of section 856(e).

“(d) STARTUP DAY.—For purposes of this part—

“(1) IN GENERAL.—The term ‘startup day’ means the date designated in the election under subsection (a)(3) as the startup day of the FASIT. Such day shall be the beginning of the first taxable year of the FASIT.

“(2) TREATMENT OF PROPERTY HELD ON STARTUP DAY.—All property held (or treated as held under section 860I(c)(2)) by an entity as of the startup day shall be treated as contributed to such entity on such day by the holder of the ownership interest in such entity.

“(e) TAX ON PROHIBITED TRANSACTIONS.—

“(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions. Such tax shall be paid by the holder of the ownership interest in the FASIT.

“(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term ‘prohibited transaction’ means—

“(A) the receipt of any income derived from any asset that is not a permitted asset,

“(B) except as provided in paragraph (3), the disposition of any permitted asset,

“(C) the receipt of any income derived from any loan originated by the FASIT, and

“(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

“(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

“(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

“(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A),

or

“(ii) section 860F(a)(5), if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

“(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

“(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

“(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

“(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

“(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

“(f) COORDINATION WITH OTHER PROVISIONS.—

“(1) WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

“(2) SECTION 475.—Except as provided by the Secretary by regulations, if any security which is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT was required to be marked-to-market under section 475 by such holder, section 475 shall continue to apply to such security; except that in applying section 475 while such security is held by the FASIT, the fair market value of such security for purposes of section 475 shall not be less than its value under section 860I(d).

“(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the ‘related person’) is related to any person if—

“(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

“(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), ‘20 percent’ shall be substituted for ‘50 percent’.

“(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.”

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking “and” at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting “, and”, and by adding at the end the following new subparagraph:

“(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).”

(2) Paragraph (6) of section 56(g) is amended by striking “or REMIC” and inserting “REMIC, or FASIT”.

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking “or a REMIC to which part IV of subchapter M applies” and inserting “a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies”.

(4) Paragraph (1) of section 582(c) is amended by inserting “, and any regular interest in a FASIT,” after “REMIC”.

(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: “The principles of the preceding provisions of this subparagraph shall apply to regular interests in a FASIT.”

(6) Paragraph (3) of section 860G(a) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) any regular interest in a FASIT which is transferred to, or purchased by, the REMIC as described in clauses (i) and (ii) of subparagraph (A) but only if 95 percent or more of the value of the assets of such FASIT is at all times attributable to obligations described in subparagraph (A) (without regard to such clauses).”

(7) Subparagraph (C) of section 1202(e)(4) is amended by striking “or REMIC” and inserting “REMIC, or FASIT”.

(8) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

“(xi) any regular or residual interest in a REMIC, and any regular interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph, except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.”

(9) Subparagraph (A) of section 7701(i)(2) is amended by inserting “or a FASIT” after “a REMIC”.

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

“Part V. Financial asset securitization investment trusts.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 1997. 26 USC 26 note.

(e) TREATMENT OF EXISTING SECURITIZATION ENTITIES.— 26 USC 860I note.

(1) IN GENERAL.—In the case of the holder of the ownership interest in a pre-effective date FASIT—

(A) gain shall not be recognized under section 860L(d)(2) of the Internal Revenue Code of 1986 on property deemed contributed to the FASIT, and

(B) gain shall not be recognized under section 860I of such Code on property contributed to such FASIT, until such property (or portion thereof) ceases to be properly allocable to a pre-FASIT interest.

(2) ALLOCATION OF PROPERTY TO PRE-FASIT INTEREST.—For purposes of paragraph (1), property shall be allocated to a pre-FASIT interest in such manner as the Secretary of the Treasury may prescribe, except that all property in a FASIT

shall be treated as properly allocable to pre-FASIT interests if the fair market value of all such property does not exceed 107 percent of the aggregate principal amount of all outstanding pre-FASIT interests.

(3) DEFINITIONS.—For purposes of this subsection—

(A) PRE-EFFECTIVE DATE FASIT.—The term “pre-effective date FASIT” means any FASIT if the entity (with respect to which the election under section 860L(a)(3) of such Code was made) is in existence on August 31, 1997.

(B) PRE-FASIT INTEREST.—The term “pre-FASIT interest” means any interest in the entity referred to in subparagraph (A) which was issued before the startup day (other than any interest held by the holder of the ownership interest in the FASIT).

## Subtitle G—Technical Corrections

### SEC. 1701. COORDINATION WITH OTHER SUBTITLES.

For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

26 USC 1 note.

### SEC. 1702. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking “section 1(i)(3)(B)” and inserting “section 1(g)(3)(B)”.

(2) Clause (i) of section 151(d)(3)(C) is amended by striking “joint of a return” and inserting “joint return”.

(b) AMENDMENTS RELATED TO SUBTITLE B.—

26 USC 6724.

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking “Paragraph (1) of section 6724(d)” and inserting “Subparagraph (B) of section 6724(d)(1)”.

(2)(A) Subparagraph (B) of section 4093(c)(2), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period “unless such fuel is sold for exclusive use by a State or any political subdivision thereof”.

(B) Paragraph (4) of section 6427(l), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period “unless such fuel was used by a State or any political subdivision thereof”.

(3) Paragraph (1) of section 6416(b) is amended by striking “chapter 32 or by section 4051” and inserting “chapter 31 or 32”.

(4) Section 7012 is amended—

(A) by striking “production or importation of gasoline” in paragraph (3) and inserting “taxes on gasoline and diesel fuel”, and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(5) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

“(6) CREDIT FOR TRANSFEREE IN BOND.—If—

“(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

“(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the ‘transferee’) to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

“(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee’s credit under this paragraph, then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

“(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

“(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

“(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.”.

(6) Paragraph (3) of section 5061(b) is amended to read as follows:

“(3) section 5041(f).”.

(7) Section 5354 is amended by inserting “(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))” after “any one time”.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking “or” at the end of clause (xii), and

(B) by striking the period at the end of clause (xiii) and inserting “, or”.

(3) Subsection (g) of section 6302 is amended by inserting “, 22,” after “chapters 21”.

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56 and 902, and subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

26 USC 832 note.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking “any transaction to which the summons relates” and inserting “any affected taxable year”, and

(B) by adding at the end thereof the following new sentence: “For purposes of this subparagraph, the term ‘affected taxable year’ means any taxable year if the determination of the amount of tax imposed for such taxable



year is affected by the treatment of the transaction to which the summons relates.”.

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new flush sentence: “The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.”.

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking “this subtitle” and inserting “this title”.

(d) AMENDMENTS RELATED TO SUBTITLE D.—

26 USC 41 note.

(1) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(2) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking “any month of the 10-year period” and inserting “any year of the 4-year period”,

(B) by striking “succeeding months” and inserting “succeeding years”, and

(C) by striking “over the remainder of such period (or, if lesser, 5 years)” and inserting “to zero over the succeeding 5 years”.

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1)(A) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

“(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).”.

26 USC 56 note.

(B) For purposes of applying sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992.

(2) Clause (i) of section 613A(c)(3)(A) is amended by striking “the table contained in”.

(3) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking “section 40(f) or 51(j)” in subsection (m) (as redesignated by subparagraph (A)) and inserting “section 40(f), 43, or 51(j)”.

(4) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: “and without regard to the deduction under section 56(h)”.

26 USC 53 note.

(5) The amendment made by section 1913(b)(2)(C)(i) of the Energy Policy Act of 1992 shall apply to taxable years beginning after December 31, 1990.

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

“(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section.”.

(B) Section 2701(a)(3)(B) is amended by inserting “CERTAIN” before “QUALIFIED” in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking “subsection (a)(3)(B)” and inserting “subsection (a)(3)(B) or (C)”.

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting “(or, to the extent provided in regulations, the rights as to either income or capital)” after “income and capital”.

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

“(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term ‘applicable family member’ includes any lineal descendant of any parent of the transferor or the transferor’s spouse.”.

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes “shall be treated as holding” and inserting:

“(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual”.

(C) Section 2704(c)(3) is amended by striking “section 2701(e)(3)(A)” and inserting “section 2701(e)(3)”.

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

“(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,”.

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

“(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments.”.

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: “A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election.”.

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor’s return of the tax imposed by section 2501 of such Code for the first calendar year ending after the date of enactment.

(6) Section 2701(d)(3)(A)(iii) is amended by striking “the period ending on the date of”.

26 USC 2701  
note.

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting “or the exclusion under section 2503(b),” after “section 2523,”.

(8) Section 2701(e)(5) is amended—

(A) by striking “such contribution to capital or such redemption, recapitalization, or other change” in subparagraph (A) and inserting “such transaction”, and

(B) by striking “the transfer” in subparagraph (B) and inserting “such transaction”.

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

“(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest.”.

(10) Section 2701(e)(6) is amended by inserting “or to reflect the application of subsection (d)” before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking “to the extent” and inserting “if” in clause (i),

(ii) by striking “or” at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting “, or”, and

(iv) by adding at the end thereof the following new clause:

“(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section.”.

(B)(i) Section 2702(a)(3) is amended by striking “incomplete transfer” each place it appears and inserting “incomplete gift”.

(ii) The heading for section 2702(a)(3)(B) is amended by striking “INCOMPLETE TRANSFER” and inserting “INCOMPLETE GIFT”.

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking “, or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock” in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: “For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock.”.

(B) Paragraph (1) of section 1248(e) is amended by striking “, or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock”.

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking “or 361(c)(1)” and inserting “355(c)(1), or 361(c)(1)”.

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

“(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

“(A) issued to the 10-percent corporate shareholder, and

“(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section.”.

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking “section 408(b)” and inserting “section 408(b)(12)”.

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting “, but only with respect to taxable years beginning after December 31, 1989” before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

26 USC 42 note.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking “or” at the end of subclause (I), by striking the period at the end of subclause (II) and inserting “, or”, and by adding at the end thereof the following new subclause:

“(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).”.

(B) Subparagraph (B) of section 168(e)(3) (relating to 5-year property) is amended by adding at the end the following flush sentence:

“Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).”.

(C) Subparagraph (K) of section 168(g)(4) is amended by striking “section 48(a)(3)(A)(iii)” and inserting “section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)”.

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking “subsection (m)” and inserting “subsection (h)”.

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking “243(b)(5)” and inserting “243(b)(2)”.

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting “of” after “In the case”.

(5) The subsection heading for subsection (a) of section 280F is amended by striking “INVESTMENT TAX CREDIT AND”.

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting “section” before “243(b)(2)”.

(7) Paragraph (3) of section 341(f) is amended by striking “351, 361, 371(a), or 374(a)” and inserting “351, or 361”.

(8) Paragraph (2) of section 243(b) is amended to read as follows:

“(2) AFFILIATED GROUP.—For purposes of this subsection:

“(A) IN GENERAL.—The term ‘affiliated group’ has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

“(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

“(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

“(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.”.

26 USC 861.

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after “section 48(a)(5)”.

(10) Paragraph (1) of section 179(d) is amended by striking “in a trade or business” and inserting “a trade or business”.

(11) Subparagraph (E) of section 50(a)(2) is amended by striking “section 48(a)(5)(A)” and inserting “section 48(a)(5)”.

26 USC 56.

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck “Section 422A(c)(2)” and inserted “Section 422(c)(2)”.

(13) Subparagraph (B) of section 424(c)(3) is amended by striking “a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option” and inserting “an incentive stock option or an option granted under an employee stock purchase plan”.

(14) Subparagraph (E) of section 1367(a)(2) is amended by striking “section 613A(c)(13)(B)” and inserting “section 613A(c)(11)(B)”.

(15) Subparagraph (B) of section 460(e)(6) is amended by striking “section 167(k)” and inserting “section 168(e)(2)(A)(ii)”.

(16) Subparagraph (C) of section 172(h)(4) is amended by striking “subsection (b)(1)(M)” and inserting “subsection (b)(1)(E)”.

(17) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(18) Paragraph (4) of section 1250(e) is hereby repealed.

(19) Paragraph (1) of section 179(d) is amended by adding at the end the following new sentence: “Such term shall not

include any property described in section 50(b) and shall not include air conditioning or heating units.”.

“(i) EFFECTIVE DATE.—Except as otherwise expressly provided, any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.”. 26 USC 38 note.

#### SEC. 1703. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1993.

(a) AMENDMENT RELATED TO SECTION 13114.—Paragraph (2) of section 1044(c) is amended to read as follows:

26 USC 1044.

“(2) PURCHASE.—The taxpayer shall be considered to have purchased any property if, but for subsection (d), the unadjusted basis of such property would be its cost within the meaning of section 1012.”.

(b) AMENDMENTS RELATED TO SECTION 13142.—

(1) Subparagraph (B) of section 13142(b)(6) of the Revenue Reconciliation Act of 1993 is amended to read as follows:

26 USC 42 note.

“(B) FULL-TIME STUDENTS, WAIVER AUTHORITY, AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (2), (3), and (4) shall take effect on the date of the enactment of this Act.”.

(2) Subparagraph (C) of section 13142(b)(6) of such Act is amended by striking “paragraph (2)” and inserting “paragraph (5)”.

(c) AMENDMENT RELATED TO SECTION 13161.—

(1) IN GENERAL.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows: 26 USC 4001.

“(e) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—The \$30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

“(A) \$30,000, multiplied by

“(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting ‘calendar year 1990’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of \$2,000, such amount shall be rounded to the next lowest multiple of \$2,000.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. 26 USC 4001 note.

(d) AMENDMENT RELATED TO SECTION 13201.—Clause (ii) of section 135(b)(2)(B) is amended by inserting before the period at the end thereof the following: “, determined by substituting ‘calendar year 1989’ for ‘calendar year 1992’ in subparagraph (B) thereof”. 26 USC 135.

(e) AMENDMENTS RELATED TO SECTION 13203.—Subsection (a) of section 59 is amended—

26 USC 59.

(1) by striking “the amount determined under section 55(b)(1)(A)” in paragraph (1)(A) and (2)(A)(i) and inserting “the pre-credit tentative minimum tax”,

(2) by striking “specified in section 55(b)(1)(A)” in paragraph (1)(C) and inserting “specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies)”,

(3) by striking “which would be determined under section 55(b)(1)(A)” in paragraph (2)(A)(ii) and inserting “which would be the pre-credit tentative minimum tax”, and

(4) by adding at the end thereof the following new paragraph:

“(3) PRE-CREDIT TENTATIVE MINIMUM TAX.—For purposes of this subsection, the term ‘pre-credit tentative minimum tax’ means—

“(A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or

“(B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i).”

(f) AMENDMENT RELATED TO SECTION 13221.—Sections 1201(a) and 1561(a) are each amended by striking “last sentence” each place it appears and inserting “last 2 sentences”.

(g) AMENDMENTS RELATED TO SECTION 13222.—

(1) Subparagraph (B) of section 6033(e)(1) is amended by adding at the end thereof the following new clause:

“(iii) COORDINATION WITH SECTION 527(f).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).”

(2) Clause (i) of section 6033(e)(1)(B) is amended by striking “this subtitle” and inserting “section 501”.

(h) AMENDMENT RELATED TO SECTION 13225.—Paragraph (3) of section 6655(g) is amended by striking all that follows “‘3rd month’” in the sentence following subparagraph (C) and inserting “, subsection (e)(2)(A) shall be applied by substituting ‘2 months’ for ‘3 months’ in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.”.

(i) AMENDMENTS RELATED TO SECTION 13231.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking “section 951(a)(1)(B)” and inserting “subparagraph (B) or (C) of section 951(a)(1)”.

(2) Paragraph (1) of section 956A(b) is amended to read as follows:

“(1) the amount (not including a deficit) referred to in section 316(a)(1) to the extent such amount was accumulated in prior taxable years beginning after September 30, 1993, and”.

(3) Subsection (f) of section 956A is amended by inserting before the period at the end thereof: “and regulations coordinating the provisions of subsections (c)(3)(A) and (d)”.

(4) Subsection (b) of section 958 is amended by striking “956(b)(2)” each place it appears and inserting “956(c)(2)”.

(5)(A) Subparagraph (A) of section 1297(d)(2) is amended by striking “The adjusted basis of any asset” and inserting “The amount taken into account under section 1296(a)(2) with respect to any asset”.

(B) The paragraph heading of paragraph (2) of section 1297(d) is amended to read as follows:

“(2) AMOUNT TAKEN INTO ACCOUNT.—”.

(6) Subsection (e) of section 1297 is amended by inserting “For purposes of this part—” after the subsection heading.

(j) AMENDMENT RELATED TO SECTION 13241.—Subparagraph (B) of section 40(e)(1) is amended to read as follows:

“(B) for any period before January 1, 2001, during which the rates of tax under section 4081(a)(2)(A) are 4.3 cents per gallon.”.

(k) AMENDMENT RELATED TO SECTION 13242.—Paragraph (4) of section 6427(f) is amended by striking “1995” and inserting “1999”.

(l) AMENDMENT RELATED TO SECTION 13261.—Clause (iii) of section 13261(g)(2)(A) of the Revenue Reconciliation Act of 1993 is amended by striking “by the taxpayer” and inserting “by the taxpayer or a related person”.

26 USC 197 note.

(m) AMENDMENT RELATED TO SECTION 13301.—Subparagraph (B) of section 1397B(d)(5) is amended by striking “preceding”.

(n) CLERICAL AMENDMENTS.—

(1) Subsection (d) of section 39 is amended—

(A) by striking “45” in the heading of paragraph (5) and inserting “45A”, and

(B) by striking “45” in the heading of paragraph (6) and inserting “45B”.

(2) Subparagraph (A) of section 108(d)(9) is amended by striking “paragraph (3)(B)” and inserting “paragraph (3)(C)”.

(3) Subparagraph (C) of section 143(d)(2) is amended by striking the period at the end thereof and inserting a comma.

(4) Clause (ii) of section 163(j)(6)(E) is amended by striking “which is a” and inserting “which is”.

(5) Subparagraph (A) of section 1017(b)(4) is amended by striking “subsection (b)(2)(D)” and inserting “subsection (b)(2)(E)”.

(6) So much of section 1245(a)(3) as precedes subparagraph (A) thereof is amended to read as follows:

“(3) SECTION 1245 PROPERTY.—For purposes of this section, the term ‘section 1245 property’ means any property which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—”.

(7) Paragraph (2) of section 1394(e) is amended—

(A) by striking “(i)” and inserting “(A)”, and

(B) by striking “(ii)” and inserting “(B)”.

(8) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking “or 51(j)” and inserting “45B, or 51(j)”.

(9)(A) The section 6714 added by section 13242(b)(1) of the Revenue Reconciliation Act of 1993 is hereby redesignated as section 6715.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking “6714” in the item added by such section 13242(b)(2) of such Act and inserting “6715”.

(10) Paragraph (2) of section 9502(b) is amended by inserting “and before” after “1982,”.

(11) Subsection (a)(3) of section 13206 of the Revenue Reconciliation Act of 1993 is amended by striking “this section” and inserting “this subsection”.

26 USC 1258  
note.

(12) Paragraph (1) of section 13215(c) of the Revenue Reconciliation Act of 1993 is amended by striking “Public Law 92-21” and inserting “Public Law 98-21”.

42 USC 401 note.

(13) Paragraph (2) of section 13311(e) of the Revenue Reconciliation Act of 1993 is amended by striking “section 1393(a)(3)” and inserting “section 1393(a)(2)”.

26 USC 38 note.



(14) Subparagraph (B) of section 117(d)(2) is amended by striking “section 132(f)” and inserting “section 132(h)”.

26 USC 39 note.

(o) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1993 to which such amendment relates.

#### SEC. 1704. MISCELLANEOUS PROVISIONS.

26 USC 401, 420,  
4980.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) IN GENERAL.—Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

“(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i).”.

26 USC 149 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: “Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation.”.

26 USC 1445  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: “If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income.”.

26 USC 469 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

“(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

“(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

“(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)), shall be treated as a loss which is not from a passive activity.”

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986. 26 USC 469 note.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: “For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.”

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: “(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)”.

(B) Subsection (j) of section 163 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) COORDINATION WITH PASSIVE LOSS RULES, ETC.—This subsection shall be applied before sections 465 and 469.”

(C) The amendments made by this paragraph shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989. 26 USC 163 note.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking “to the extent” and all that follows down through “subparagraph (A)” and inserting “to the extent that the allocable interest exceeds the interest described in subparagraph (A)”.

(ii) The second sentence of section 884(f)(1) is amended by striking “reasonably expected” and all that follows down through the period at the end thereof and inserting “reasonably expected to be allocable interest.”

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

“(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term ‘allocable interest’ means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.”

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the 26 USC 884 note.

amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking “863(b)” and inserting “863”.

26 USC 865 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking “, and” at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding “and” at the end of paragraph (2), by striking “, and” at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

“(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled.”

29 USC 1162.

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

“(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.”

42 USC 300bb-2.

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

“(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close

of the 36-month period beginning on the date the covered employee became so entitled.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

26 USC 4980B  
note.

(h) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

“(6) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

“(A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this subsection,

“(B) the alternative minimum taxable income of any holder of a residual interest in a REMIC for any taxable year shall in no event be less than the excess inclusion for such taxable year, and

“(C) any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

The preceding sentence shall not apply to any organization to which section 593 applies, except to the extent provided in regulations prescribed by the Secretary under paragraph (2).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986 unless the taxpayer elects to apply such amendment only to taxable years beginning after the date of the enactment of this Act.

26 USC 860E  
note.

(i) EXEMPTION FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS.—

(1) IN GENERAL.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: “, or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

26 USC 4462  
note.

(j) AMENDMENTS RELATED TO REVENUE PROVISIONS OF ENERGY POLICY ACT OF 1992.—

(1) Effective with respect to taxable years beginning after December 31, 1990, subclause (II) of section 53(d)(1)(B)(iv) is amended to read as follows:

“(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii).”.

(2) Subsection (g) of section 179A is redesignated as subsection (f).

(3) Subparagraph (E) of section 6724(d)(3) is amended by striking “section 6109(f)” and inserting “section 6109(h)”.

(4)(A) Subsection (d) of section 30 is amended—

(i) by inserting “(determined without regard to subsection (b)(3))” before the period at the end of paragraph (1) thereof, and

(ii) by adding at the end thereof the following new paragraph:

“(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.”.

(B) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking “section 40(f)” and inserting “sections 30(d)(4), 40(f)”.

(5) Subclause (III) of section 501(c)(21)(D)(ii) is amended by striking “section 101(6)” and inserting “section 101(7)” and by striking “1752(6)” and inserting “1752(7)”.

26 USC 468A.

(6) Paragraph (1) of section 1917(b) of the Energy Policy Act of 1992 shall be applied as if “at a rate” appeared instead of “at the rate” in the material proposed to be stricken.

26 USC 142.

(7) Paragraph (2) of section 1921(b) of the Energy Policy Act of 1992 shall be applied as if a comma appeared after “(2)” in the material proposed to be stricken.

26 USC 737.

(8) Subsection (a) of section 1937 of the Energy Policy Act of 1992 shall be applied as if “Subpart B” appeared instead of “Subpart C”.

26 USC 401 note.

(k) TREATMENT OF QUALIFIED FOOTBALL COACHES PLAN.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, a qualified football coaches plan—

(A) shall be treated as a multiemployer collectively bargained plan, and

(B) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement under section 401(k) of such Code.

(2) QUALIFIED FOOTBALL COACHES PLAN.—For purposes of this subsection, the term “qualified football coaches plan” means any defined contribution plan which is established and maintained by an organization—

(A) which is described in section 501(c) of such Code,

(B) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii) of such Code, and

(C) which was in existence on September 18, 1986.

(3) EFFECTIVE DATE.—This subsection shall apply to years beginning after December 22, 1987.

(l) DETERMINATION OF UNRECOVERED INVESTMENT IN ANNUITY CONTRACT.—

(1) IN GENERAL.—Subparagraph (A) of section 72(b)(4) is amended by inserting “(determined without regard to subsection (c)(2))” after “contract”.

26 USC 72 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1122(c) of the Tax Reform Act of 1986.

(m) MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.—

(1) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

“(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described.”.

(2) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(A) by striking “\$1,000” in clause (i) and inserting “twice the amount described in paragraph (4)(A)(ii)(I)”, and

(B) by amending subclause (II) of clause (ii) to read as follows:

“(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and”.

(3) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking “\$1,000” and inserting “twice the amount in effect for the taxable year under section 63(c)(5)(A)”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

26 USC 1 note.

(n) TREATMENT OF CERTAIN VETERANS' REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

“(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS UNDER USERRA.—

“(1) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—If any contribution is made by an employer or an employee under an individual account plan with respect to an employee, or by an employee to a defined benefit plan that provides for employee contributions, and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service, then—

“(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, and shall not be taken into account in applying such limitations to other contributions or benefits under such plan or any other plan, with respect to the year in which the contribution is made,

“(B) such contribution shall be subject to the limitations referred to in subparagraph (A) with respect to the year to which the contribution relates (in accordance with rules prescribed by the Secretary), and

“(C) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k)(3), 408(k)(6), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

For purposes of the preceding sentence, any elective deferral or employee contribution made under paragraph (2) shall be treated as required by reason of the employee's rights under such chapter 43.

“(2) REEMPLOYMENT RIGHTS UNDER USERRA WITH RESPECT TO ELECTIVE DEFERRALS.—

“(A) IN GENERAL.—For purposes of this subchapter and section 457, if an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, the employer sponsoring the plan shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals only if such employer—

“(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B) or such lesser amount as is elected by the employee) during the period which begins on the date of the reemployment of such employee with such employer and has the same length as the lesser of—

“(I) the product of 3 and the period of qualified military service which resulted in such rights, and

“(II) 5 years, and

“(ii) makes a matching contribution with respect to any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

“(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph with respect to any plan is the maximum amount of the elective deferrals that the individual would have been permitted to make under the plan in accordance with the limitations referred to in paragraph (1)(A) during the period of qualified military service if the individual had continued to be employed by the employer during such period and received compensation as determined under paragraph (7). Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

“(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term ‘elective deferral’ has the meaning given such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

“(D) AFTER-TAX EMPLOYEE CONTRIBUTIONS.—References in subparagraphs (A) and (B) to elective deferrals shall be treated as including references to employee contributions.

“(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—For purposes of this subchapter and subchapter E, no provision of chapter 43 of title 38, United States Code, shall be construed as requiring—

“(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

“(B) any allocation of any forfeiture with respect to the period of qualified military service.

“(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the obligation to repay any loan made to an employee from such plan for any part of any period during which such employee is performing service in the uniformed services (as defined in chapter 43 of title 38, United States

Code), whether or not qualified military service, such suspension shall not be taken into account for purposes of section 72(p), 401(a), or 4975(d)(1).

“(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term ‘qualified military service’ means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

“(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term ‘individual account plan’ means any defined contribution plan (including any tax-sheltered annuity plan under section 403(b), any simplified employee pension under section 408(k), any qualified salary reduction arrangement under section 408(p), and any eligible deferred compensation plan (as defined in section 457(b)).

“(7) COMPENSATION.—For purposes of sections 403(b)(3), 415(c)(3), and 457(e)(5), an employee who is in qualified military service shall be treated as receiving compensation from the employer during such period of qualified military service equal to—

“(A) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for absence during the period of qualified military service, or

“(B) if the compensation the employee would have received during such period was not reasonably certain, the employee’s average compensation from the employer during the 12-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

“(8) USERRA REQUIREMENTS FOR QUALIFIED RETIREMENT PLANS.—For purposes of this subchapter and section 457, an employer sponsoring a retirement plan shall be treated as meeting the requirements of chapter 43 of title 38, United States Code, only if each of the following requirements is met:

“(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual’s period of qualified military service.

“(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual’s accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

“(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the



individual would have been permitted or required to contribute had the individual remained continuously employed by the employer throughout the period of qualified military service. Any payment to such plan shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

“(9) PLANS NOT SUBJECT TO TITLE 38.—This subsection shall not apply to any retirement plan to which chapter 43 of title 38, United States Code, does not apply.

“(10) REFERENCES.—For purposes of this section, any reference to chapter 43 of title 38, United States Code, shall be treated as a reference to such chapter as in effect on December 12, 1994 (without regard to any subsequent amendment).”.

29 USC 1108.

(2) AMENDMENT TO ERISA.—Section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148(b)) is amended by adding at the end the following new sentence: “A loan made by a plan shall not fail to meet the requirements of the preceding sentence by reason of a loan repayment suspension described under section 414(u)(4) of the Internal Revenue Code of 1986.”.

26 USC 414 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as of December 12, 1994.

(o) REPORTING OF REAL ESTATE TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: “Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.”.

26 USC 6045  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988.

(p) CLARIFICATION OF DENIAL OF DEDUCTION FOR STOCK REDEMPTION EXPENSES.

(1) IN GENERAL.—Paragraph (1) of section 162(k) is amended by striking “the redemption of its stock” and inserting “the reacquisition of its stock or of the stock of any related person (as defined in section 465(b)(3)(C))”.

(2) CERTAIN DEDUCTIONS PERMITTED.—Subparagraph (A) of section 162(k)(2) is amended by striking “or” at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

“(ii) deduction for amounts which are properly allocable to indebtedness and amortized over the term of such indebtedness, or”.

(3) CLERICAL AMENDMENT.—The subsection heading for subsection (k) of section 162 is amended by striking “REDEMPTION” and inserting “REACQUISITION”.

26 USC 162 note.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply

to amounts paid or incurred after September 13, 1995, in taxable years ending after such date.

(B) PARAGRAPH (2).—The amendment made by paragraph (2) shall take effect as if included in the amendment made by section 613 of the Tax Reform Act of 1986.

(q) CLERICAL AMENDMENT TO SECTION 404.—

(1) IN GENERAL.—Paragraph (1) of section 404(j) is amended by striking “(10)” and inserting “(9)”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 713(d)(4)(A) of the Deficit Reduction Act of 1984.

26 USC 404 note.

(r) PASSIVE INCOME NOT TO INCLUDE FSC INCOME, ETC.—

(1) IN GENERAL.—Paragraph (2) of section 1296(b) is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, or”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) which is foreign trade income of an FSC or export trade income of an export trade corporation (as defined in section 971).”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 1235 of the Tax Reform Act of 1986.

26 USC 1296 note.

(s) TECHNICAL CORRECTION OF INTERMEDIATE SANCTIONS PROVISIONS.—

(1) Subparagraph (C) of section 6652(c)(1) is amended by striking “\$10” and inserting “\$20”, and by striking “\$5,000” and inserting “\$10,000”.

(2) Subparagraph (D) of section 6652(c)(1) is amended by striking “\$10” and inserting “\$20”.

(t) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking “of the subclause” and inserting “of subclause”.

(2) Paragraph (2) of section 72(m) is amended by inserting “and” at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking “adusted” and inserting “adjusted”.

(4)(A) The heading for section 112 is amended by striking “COMBAT PAY” and inserting “COMBAT ZONE COMPENSATION”.

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking “combat pay” and inserting “combat zone compensation”.

(C) Paragraph (1) of section 3401(a) is amended by striking “combat pay” and inserting “combat zone compensation”.

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking “section 563(c)” and inserting “section 563(d)”.

(7) Paragraph (1) of section 958(a) is amended by striking “sections 955(b)(1) (A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)” and inserting “section 960(a)(1)”.

(8) Subsection (g) of section 642 is amended by striking “under 2621(a)(2)” and inserting “under section 2621(a)(2)”.

(9) Section 1463 is amended by striking “this subsection” and inserting “this section”.

(10) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(11) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking “and special rules”.

(12) Paragraph (3) of section 5134(c) is amended by striking “section 6662(a)” and inserting “section 6665(a)”.

(13) Paragraph (2) of section 5206(f) is amended by striking “section 5(e)” and inserting “section 105(e)”.

(14) Paragraph (1) of section 6050B(c) is amended by striking “section 85(c)” and inserting “section 85(b)”.

(15) Subsection (k) of section 6166 is amended by striking paragraph (6).

(16) Subsection (e) of section 6214 is amended to read as follows:

“(e) CROSS REFERENCE.—

“For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).”.

(17) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(18) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(19) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(20)(A) Section 7232 is amended—

(i) by striking “LUBRICATING OIL,” in the heading, and

(ii) by striking “lubricating oil,” in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking “lubricating oil,” in the item relating to section 7232.

26 USC 4980B. (21) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking “subclause (IV)” and inserting “subclause (V)”.

26 USC 4979A. (22) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking “subsection (c)(2)” and inserting “subsection (c)”.

26 USC 6050H. (23) Paragraph (1) of section 7646(b) of such Act is amended by striking “section 6050H(b)(1)” and inserting “section 6050H(b)(2)”.

26 USC 461. (24) Paragraph (10) of section 7721(c) of such Act is amended by striking “section 6662(b)(2)(C)(ii)” and inserting “section 6661(b)(2)(C)(ii)”.

26 USC 954. (25) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting “the first place it appears” before “in clause (i)”.

26 USC 381. (26) Paragraph (10) of section 7841(d) of such Act is amended by striking “section 381(a)” and inserting “section 381(c)”.

26 USC 401 note. (27) Paragraph (2) of section 7861(c) of such Act is amended by inserting “the second place it appears” before “and inserting”.

(28) Paragraph (1) of section 460(b) is amended by striking “the look-back method of paragraph (3)” and inserting “the look-back method of paragraph (2)”.

(29) Subparagraph (C) of section 50(a)(2) is amended by striking “subsection (c)(4)” and inserting “subsection (d)(5)”.

(30) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting “For purposes of subsection (b)(2)—”.

(31) Subparagraph (A) of section 355(d)(7) is amended by inserting “section” before “267(b)”.

(32) Subparagraph (C) of section 420(e)(1) is amended by striking “mean” and inserting “means”.

(33) Paragraph (4) of section 537(b) is amended by striking “section 172(i)” and inserting “section 172(f)”.

(34) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(35) Paragraph (4) of section 856(a) is amended by striking “section 582(c)(5)” and inserting “section 582(c)(2)”.

(36) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting “(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)” after “section 172(h)”.

(37) Subsection (b) of section 936 is amended by striking “subparagraphs (D)(ii)(I)” and inserting “subparagraphs (D)(ii)”.

(38) Subsection (c) of section 2104 is amended by striking “subparagraph (A), (C), or (D) of section 861(a)(1)” and inserting “section 861(a)(1)(A)”.

(39) Subparagraph (A) of section 280A(c)(1) is amended to read as follows:

“(A) as the principal place of business for any trade or business of the taxpayer,”.

(40) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(41) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows “provisions of” and inserting “section 1(g) or 59(j);”.

(42) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101-624 is redesignated as subsection (g).

(43) Subsection (b) of section 7454 is amended by striking “section 4955(e)(2)” and inserting “section 4955(f)(2)”.

(44) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if “comma” appeared instead of “period” and as if the paragraph (9) proposed to be added ended with a comma. 26 USC 9507 note.

(45) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if “paragraph” appeared instead of “subparagraph” in the material proposed to be stricken. 26 USC 832.

(46) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting “(relating to definitions)” after “section 6038(e)”. 26 USC 6038.

(47) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if “subsection” appeared instead of “section” in the material proposed to be stricken. 26 USC 1253.

(48) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if “section 56(g)” appeared instead of “section 59(g)”. 26 USC 56.

- 26 USC 247. (49) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if “reorganizations” appeared instead of “reorganization” in the material proposed to be stricken.
- 26 USC 1042. (50) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if “section 1042(c)(1)(B)” appeared instead of “section 1042(c)(2)(B)”.
- 26 USC 593. (51) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if “and (3)” appeared instead of “and (E)”.
- 26 USC 6302. (52) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if “chapters 21” appeared instead of “chapter 21” in the material proposed to be stricken.
- 26 USC 42. (53) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).
- 26 USC 168. (54) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after “(3)(A)(ix)” in the material proposed to be stricken.
- 26 USC prec. 261. (55) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if “tax” appeared after “investment” in the material proposed to be stricken.
- 26 USC 1016. (56) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if “Paragraph (20) of section 1016(a), as redesignated by section 11801,” appeared instead of “Paragraph (21) of section 1016(a)”.
- 26 USC 4481. (57) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if “4481(e)” appeared instead of “4481(c)”.
- (58) Section 7872 is amended—
- (A) by striking “foregone” each place it appears in subsections (a) and (e)(2) and inserting “forgone”, and
- (B) by striking “FOREGONE” in the heading for subsection (e) and the heading for paragraph (2) of subsection (e) and inserting “FORGONE”.
- (59) Paragraph (7) of section 7611(h) is amended by striking “appropriate” and inserting “appropriate”.
- (60) The heading of paragraph (3) of section 419A(c) is amended by striking “SEVERENCE” and inserting “SEVERANCE”.
- (61) Clause (ii) of section 807(d)(3)(B) is amended by striking “Commissoners” and inserting “Commissioners”.
- (62) Subparagraph (B) of section 1274A(c)(1) is amended by striking “instument” and inserting “instrument”.
- (63) Subparagraph (B) of section 724(d)(3) by striking “Subparagraph” and inserting “Subparagraph”.
- (64) The last sentence of paragraph (2) of section 42(c) is amended by striking “of 1988”.
- (65) Paragraph (1) of section 9707(d) is amended by striking “diligence,” and inserting “diligence”.
- (66) Subsection (c) of section 4977 is amended by striking “section 132(i)(2)” and inserting “section 132(h)”.
- (67) The last sentence of section 401(a)(20) is amended by striking “section 211” and inserting “section 521”.

(68) Subparagraph (A) of section 402(g)(3) is amended by striking “subsection (a)(8)” and inserting “subsection (e)(3)”.

(69) The last sentence of section 403(b)(10) is amended by striking “an direct” and inserting “a direct”.

(70) Subparagraph (A) of section 4973(b)(1) is amended by striking “sections 402(c)” and inserting “section 402(c)”.

(71) Paragraph (12) of section 3405(e) is amended by striking “(b)(3)” and inserting “(b)(2)”.

(72) Paragraph (41) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if “section” appeared instead of “sections” in the material proposed to be stricken. 26 USC 4973.

(73) Paragraph (27) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if “Section 691(c)(5)” appeared instead of “Section 691(c)”. 26 USC 691.

(74) Paragraph (5) of section 860F(a) is amended by striking “paragraph (1)” and inserting “paragraph (2)”.

(75) Paragraph (1) of section 415(k) is amended by adding “or” at the end of subparagraph (C), by striking subparagraphs (D) and (E), and by redesignating subparagraph (F) as subparagraph (D).

(76) Paragraph (2) of section 404(a) is amended by striking “(18),”.

(77) Clause (ii) of section 72(p)(4)(A) is amended to read as follows:

“(ii) SPECIAL RULE.—The term ‘qualified employer plan’ shall include any plan which was (or was determined to be) a qualified employer plan or a government plan.”

(78) Sections 461(i)(3)(C) and 1274(b)(3)(B)(i) are each amended by striking “section 6662(d)(2)(C)(ii)” and inserting “section 6662(d)(2)(C)(iii)”.

(79) Subsection (a) of section 164 is amended by striking the paragraphs relating to the generation-skipping tax and the environmental tax imposed by section 59A and by inserting after paragraph (3) the following new paragraphs:

“(4) The GST tax imposed on income distributions.

“(5) The environmental tax imposed by section 59A.”

(80) Subclause (I) of section 936(a)(4)(A)(ii) is amended by striking “depreciation” and inserting “depreciation”.

## Subtitle H—Other Provisions

### SEC. 1801. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

“(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

“(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator

of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

“(2) the use of which is certified pursuant to regulations issued by the Secretary.”.

26 USC 4082  
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to fuel removed, entered, or sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

26 USC 3121  
note.

#### **SEC. 1802. TREATMENT OF CERTAIN UNIVERSITY ACCOUNTS.**

(a) **IN GENERAL.**—For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1986 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations that concurrently employ the same individual:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) an agency account of a State university which is described in subparagraph (A) and from which there is distributed to such faculty members payments forming a part of the compensation that the State, or such State university, as the case may be, agrees to pay to such faculty members, but only if—

(i) such agency account is authorized by State law and receives the funds for such payments from a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(ii) such payments are distributed by such agency account to such faculty members who render patient care at such medical school, and

(iii) such faculty members comprise at least 30 percent of the membership of such faculty practice plan, and

(2) remuneration which is disbursed by such agency account to any such faculty member of the medical school described in paragraph (1)(A) shall be deemed to have been actually disbursed by the State, or such State university, as the case may be, as a common paymaster and not to have been actually disbursed by such agency account.

(b) **EFFECTIVE DATE.**—The provisions of subsection (a) shall apply to remuneration paid after December 31, 1996.

#### **SEC. 1803. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.**

(a) **RECYCLED HALON.**—

(1) **IN GENERAL.**—Section 4682(d)(1) (relating to recycling) is amended by inserting “, or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer” before the period at the end.

26 USC 4682  
note.

(2) **CERTIFICATION SYSTEM.**—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by paragraph (1).

(b) **CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS TAX-EXEMPT.**—Paragraph (4) of section 4682(g) (relating to phase-in of tax on certain substances) is amended to read as follows:

“(4) **CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.**—

“(A) **TAX-EXEMPT.**—

“(i) **IN GENERAL.**—No tax shall be imposed by section 4681 on—

“(I) any use of any substance as a propellant in metered-dose inhalers, or

“(II) any qualified sale by the manufacturer, producer, or importer of any substance.

“(ii) **QUALIFIED SALE.**—For purposes of clause (i), the term ‘qualified sale’ means any sale by the manufacturer, producer, or importer of any substance—

“(I) for use by the purchaser as a propellant in metered-dose inhalers, or

“(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

“(B) **OVERPAYMENTS.**—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.”.

(c) **EFFECTIVE DATES.**—

(1) **RECYCLED HALON.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amendment made by subsection (a)(1) shall take effect on January 1, 1997.

(B) **HALON-1211.**—In the case of Halon-1211, the amendment made by subsection (a)(1) shall take effect on January 1, 1998.

(2) **METERED-DOSE INHALERS.**—The amendment made by subsection (b) shall take effect on the 7th day after the date of the enactment of this Act.

26 USC 4682  
note.

**SEC. 1804. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.**

26 USC 142 note.

Sections 142(f)(3) (as added by section 1608) and 147(d) of the Internal Revenue Code of 1986 shall not apply in determining whether any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration is a qualified bond for purposes of such Code.



**SEC. 1805. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.**

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

“(1) IN GENERAL.—If—

“(A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

“(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund, no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

“(2) BASIS RULES.—

“(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

“(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

“(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

“(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

“(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

“(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

“(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

“(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

“(III) any adjustment to the basis of a participant’s interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

“(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term ‘assumed liabilities’ means the aggregate of—

“(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

“(II) any liability to which property so transferred is subject.

“(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995. 26 USC 584 note.

#### **SEC. 1806. QUALIFIED STATE TUITION PROGRAMS.**

(a) IN GENERAL.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end the following new part:

### **“PART VIII—QUALIFIED STATE TUITION PROGRAMS**

“Sec. 529. Qualified State tuition programs.

#### **“SEC. 529. QUALIFIED STATE TUITION PROGRAMS.**

“(a) GENERAL RULE.—A qualified State tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

“(b) QUALIFIED STATE TUITION PROGRAM.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified State tuition program’ means a program established and maintained by a State or agency or instrumentality thereof—

“(A) under which a person—

“(i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or

“(ii) may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

“(B) which meets the other requirements of this subsection.

“(2) CASH CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides that purchases or contributions may only be made in cash.

“(3) REFUNDS.—A program shall not be treated as a qualified State tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

“(A) used for qualified higher education expenses of the designated beneficiary,

“(B) made on account of the death or disability of the designated beneficiary, or

“(C) made on account of a scholarship (or allowance or payment described in section 135(d)(1) (B) or (C)) received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.

“(4) SEPARATE ACCOUNTING.—A program shall not be treated as a qualified State tuition program unless it provides separate accounting for each designated beneficiary.

“(5) NO INVESTMENT DIRECTION.—A program shall not be treated as a qualified State tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not direct the investment of any contributions to the program (or any earnings thereon).

“(6) NO PLEDGING OF INTEREST AS SECURITY.—A program shall not be treated as a qualified State tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

“(7) PROHIBITION ON EXCESS CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

“(c) TAX TREATMENT OF DESIGNATED BENEFICIARIES AND CONTRIBUTORS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

“(A) a designated beneficiary under a qualified State tuition program, or

“(B) a contributor to such program on behalf of a designated beneficiary, with respect to any distribution or earnings under such program.

“(2) CONTRIBUTIONS.—In no event shall a contribution to a qualified State tuition program on behalf of a designated beneficiary be treated as a taxable gift for purposes of chapter 12.

“(3) DISTRIBUTIONS.—

“(A) IN GENERAL.—Any distribution under a qualified State tuition program shall be includible in the gross

income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

“(B) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary.

“(C) CHANGE IN BENEFICIARIES.—

“(i) ROLLOVERS.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to the credit of another designated beneficiary under a qualified State tuition program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

“(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified State tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the family of the old beneficiary.

“(D) OPERATING RULES.—For purposes of applying section 72—

“(i) to the extent provided by the Secretary, all qualified State tuition programs of which an individual is a designated beneficiary shall be treated as one program,

“(ii) all distributions during a taxable year shall be treated as one distribution, and

“(iii) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

“(4) ESTATE TAX INCLUSION.—The value of any interest in any qualified State tuition program which is attributable to contributions made by an individual to such program on behalf of any designated beneficiary shall be includible in the gross estate of the contributor for purposes of chapter 11.

“(5) SPECIAL RULE FOR APPLYING SECTION 2503(e).—For purposes of section 2503(e), the waiver (or payment to an educational institution) of qualified higher education expenses of a designated beneficiary under a qualified State tuition program shall be treated as a qualified transfer.

“(d) REPORTING REQUIREMENTS.—

“(1) IN GENERAL.—If there is a distribution to any individual with respect to an interest in a qualified State tuition program during any calendar year, each officer or employee having control of the qualified State tuition program or their designee shall make such reports as the Secretary may require regarding such distribution to the Secretary and to the designated beneficiary or the individual to whom the distribution was made. Any such report shall include such information as the Secretary may prescribe.

“(2) TIMING OF REPORTS.—Any report required by this subsection—

“(A) shall be filed at such time and in such matter as the Secretary prescribes, and

“(B) shall be furnished to individuals not later than January 31 of the calendar year following the calendar year to which such report relates.

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) DESIGNATED BENEFICIARY.—The term ‘designated beneficiary’ means—

“(A) the individual designated at the commencement of participation in the qualified State tuition program as the beneficiary of amounts paid (or to be paid) to the program,

“(B) in the case of a change in beneficiaries described in subsection (c)(2)(C), the individual who is the new beneficiary, and

“(C) in the case of an interest in a qualified State tuition program purchased by a State or local government or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

“(2) MEMBER OF FAMILY.—The term ‘member of the family’ has the same meaning given such term as section 2032A(e)(2).

“(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term ‘qualified higher education expenses’ means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).

“(4) APPLICATION OF SECTION 514.—An interest in a qualified State tuition program shall not be treated as debt for purposes of section 514.”

(b) CONFORMING AMENDMENTS.—

(1) Section 135(d)(1) is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, or”, and by adding at the end the following new subparagraph:

“(D) a payment, waiver, or reimbursement of qualified higher education expenses under a qualified State tuition program (within the meaning of section 529(b)).”

(2) The table of parts for subchapter F of chapter 1 is amended by adding at the end the following new item:

“Part VIII. Qualified State tuition programs.”

26 USC 529 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) TRANSITION RULE.—If—

(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

(B) such program meets the requirements of a qualified State tuition program before the later of—

(i) the date which is 1 year after such date of enactment, or

(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment, the amendments made by this section shall apply to contributions (and earnings allocable thereto) made before the date such program meets the requirements of such amendments without regard to whether any requirements of such amendments are met with respect to such contributions and earnings.

For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

**SEC. 1807. ADOPTION ASSISTANCE.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

**“SEC. 23. ADOPTION EXPENSES.**

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.

“(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

“(A) for the taxable year following the taxable year during which such expense is paid or incurred, or

“(B) in the case of an expense which is paid or incurred during the taxable year in which the adoption becomes final, for such taxable year.

“(b) LIMITATIONS.—

“(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed \$5,000 (\$6,000, in the case of a child with special needs).

“(2) INCOME LIMITATION.—

“(A) IN GENERAL.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

“(i) the amount (if any) by which the taxpayer's adjusted gross income exceeds \$75,000, bears to

“(ii) \$40,000.

“(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), adjusted gross income shall be determined—

“(i) without regard to sections 911, 931, and 933, and

“(ii) after the application of sections 86, 135, 137, 219, and 469.

“(3) DENIAL OF DOUBLE BENEFIT.—

“(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

“(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

“(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED ADOPTION EXPENSES.—The term ‘qualified adoption expenses’ means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

“(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer,

“(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement,

“(C) which are not expenses in connection with the adoption by an individual of a child who is the child of such individual’s spouse, and

“(D) which are not reimbursed under an employer program or otherwise.

“(2) ELIGIBLE CHILD.—The term ‘eligible child’ means any individual—

“(A) who—

“(i) has not attained age 18, or

“(ii) is physically or mentally incapable of caring for himself, and

“(B) in the case of qualified adoption expenses paid or incurred after December 31, 2001, who is a child with special needs.

“(3) CHILD WITH SPECIAL NEEDS.—The term ‘child with special needs’ means any child if—

“(A) a State has determined that the child cannot or should not be returned to the home of his parents,

“(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and

“(C) such child is a citizen or resident of the United States (as defined in section 217(h)(3)).

“(e) SPECIAL RULES FOR FOREIGN ADOPTIONS.—In the case of an adoption of a child who is not a citizen or resident of the United States (as defined in section 217(h)(3))—

“(1) subsection (a) shall not apply to any qualified adoption expense with respect to such adoption unless such adoption becomes final, and

“(2) any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account under this section as if such expense were paid or incurred during such year.

“(f) FILING REQUIREMENTS.—

“(1) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

“(2) TAXPAYER MUST INCLUDE TIN.—

“(A) IN GENERAL.—No credit shall be allowed under this section with respect to any eligible child unless the taxpayer includes (if known) the name, age, and TIN of such child on the return of tax for the taxable year.

“(B) OTHER METHODS.—The Secretary may, in lieu of the information referred to in subparagraph (A), require other information meeting the purposes of subparagraph (A), including identification of an agent assisting with the adoption.

“(g) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section and section 137, including regulations which treat unmarried individuals who pay or incur qualified adoption expenses with respect to the same child as 1 taxpayer for purposes of applying the dollar limitation in subsection (b)(1) of this section and in section 137(b)(1).”

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

**“SEC. 137. ADOPTION ASSISTANCE PROGRAMS.**

“(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

“(b) LIMITATIONS.—

“(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed \$5,000 (\$6,000, in the case of a child with special needs).

“(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—



“(A) the amount (if any) by which the taxpayer’s adjusted gross income exceeds \$75,000, bears to  
 “(B) \$40,000.

“(3) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of paragraph (2), adjusted gross income shall be determined—

“(A) without regard to this section and sections 911, 931, and 933, and

“(B) after the application of sections 86, 135, 219, and 469.

“(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a separate written plan of an employer for the exclusive benefit of such employer’s employees—

“(1) under which the employer provides such employees with adoption assistance, and

“(2) which meets requirements similar to the requirements of paragraphs (2), (3), (5), and (6) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

“(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term ‘qualified adoption expenses’ has the meaning given such term by section 23(d) (determined without regard to reimbursements under this section).

“(e) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e), (f), and (g) of section 23 shall apply for purposes of this section.

“(f) TERMINATION.—This section shall not apply to amounts paid or expenses incurred after December 31, 2001.”.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 25(e)(1) is amended by inserting “and section 23” after “this section”.

(2) Sections 86(b)(2)(A) and 135(c)(4)(A) are each amended by inserting “137,” before “911”.

(3) Clause (i) of section 219(g)(3)(A) is amended by inserting “, 137,” before “and 911”.

(4) Clause (ii) of section 469(i)(3)(E) is amended to read as follows:

“(ii) the amounts excludable from gross income under sections 135 and 137.”.

(5) Subsection (a) of section 1016 is amended by striking “and” at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting “, and”, and by adding at the end the following new paragraph:

“(26) to the extent provided in sections 23(g) and 137(e).”.

(6) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

“Sec. 23. Adoption expenses.”.

(7) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

“Sec. 137. Adoption assistance programs;  
 “Sec. 138. Cross reference to other Acts.”.

(d) **STUDY AND REPORT.**—The Secretary of the Treasury shall study the effect on adoptions of the tax credit and gross income exclusion established by the amendments made by this section and shall submit a report regarding the study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 2000.

26 USC 23 note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 1808. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION.**

(a) **STATE PLAN REQUIREMENTS.**—Section 471(a) of the Social Security Act (42 U.S.C 671(a)) is amended—

(1) by striking “and” at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting “; and”; and

(3) by adding at the end the following:

“(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

“(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

“(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.”.

(b) **ENFORCEMENT.**—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

“(d)(1) If, during any quarter of a fiscal year, a State’s program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated section 471(a)(18) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

“(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

“(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

“(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

“(2) Any other entity which is in a State that receives funds under this part and which violates section 471(a)(18) during a

fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

“(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

“(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

“(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.”

42 USC 1996b.

(c) CIVIL RIGHTS.—

(1) PROHIBITED CONDUCT.—A person or government that is involved in adoption or foster care placements may not—

(A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) ENFORCEMENT.—Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964.

(3) NO EFFECT ON THE INDIAN CHILD WELFARE ACT OF 1978.—This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(d) CONFORMING AMENDMENT.—Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a) is repealed.

26 USC 6302  
note.

#### SEC. 1809. 6-MONTH DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT.

Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.

### Subtitle I—Foreign Trust Tax Compliance

#### SEC. 1901. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

#### “SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

“(a) NOTICE OF CERTAIN EVENTS.—

“(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

“(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

“(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

“(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

“(3) REPORTABLE EVENT.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘reportable event’ means—

“(i) the creation of any foreign trust by a United States person,

“(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

“(iii) the death of a citizen or resident of the United States if—

“(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

“(II) any portion of a foreign trust was included in the gross estate of the decedent.

“(B) EXCEPTIONS.—

“(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

“(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

“(I) described in section 402(b), 404(a)(4), or 404A, or

“(II) determined by the Secretary to be described in section 501(c)(3).

“(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term ‘responsible party’ means—

“(A) the grantor in the case of the creation of an inter vivos trust,

“(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

“(C) the executor of the decedent’s estate in any other case.

“(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

“(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

“(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

“(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who

is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

“(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

“(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

“(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

“(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

“(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

“(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

“(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

“(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

“(A) the name of such trust,

“(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

“(C) such other information as the Secretary may prescribe.

“(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

“(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To

the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

“(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be  $\frac{1}{2}$  of the number of years the trust has been in existence.

“(d) SPECIAL RULES.—

“(1) DETERMINATION OF WHETHER UNITED STATES PERSON MAKES TRANSFER OR RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

“(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

“(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

“(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.”

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

**“SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.**

“(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

“(1) is not filed on or before the time provided in such section, or

“(2) does not include all the information required pursuant to such section or includes incorrect information, the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of \$10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

“(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

“(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

“(2) subsection (a) shall be applied by substituting ‘5 percent’ for ‘35 percent’.

“(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term ‘gross reportable amount’ means—

“(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

“(2) the gross value of the portion of the trust’s assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

“(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

“(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

“(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).”.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) is amended by striking “or” at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting “, or”, and by inserting after subparagraph (T) the following new subparagraph:

“(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).”.

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

“Sec. 6048. Information with respect to certain foreign trusts.”.

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

“Sec. 6677. Failure to file information with respect to certain foreign trusts.”.

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

**SEC. 1902. COMPARABLE PENALTIES FOR FAILURE TO FILE RETURN RELATING TO TRANSFERS TO FOREIGN ENTITIES.**

(a) **IN GENERAL.**—Section 1494 is amended by adding at the end the following new subsection:

“(c) **PENALTY.**—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a notice under section 6048(a).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

26 USC 1494  
note.

**SEC. 1903. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.**

(a) **TREATMENT OF TRUST OBLIGATIONS, ETC.**—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

“(B) **TRANSFERS AT FAIR MARKET VALUE.**—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.”

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

“(3) **CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.**—

“(A) **IN GENERAL.**—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

“(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

“(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

“(B) **TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.**—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

“(C) **PERSONS DESCRIBED.**—The persons described in this subparagraph are—

“(i) the trust,

“(ii) any grantor or beneficiary of the trust, and

“(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.”

(b) **EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.**—Subsection (a) of section 679 is amended by striking “section 404(a)(4) or 404A” and inserting “section 6048(a)(3)(B)(ii)”.

(c) **OTHER MODIFICATIONS.**—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:



“(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

“(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

“(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

“(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

“(5) OUTBOUND TRUST MIGRATIONS.—If—

“(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

“(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.”.

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

“(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—

A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.”.

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

“(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),”.

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

#### SEC. 1904. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:  
“(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

“(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount (if any) being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

“(2) EXCEPTIONS.—

“(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any portion of a trust if—

“(i) the power to revest absolutely in the grantor title to the trust property to which such portion is attributable is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

“(ii) the only amounts distributable from such portion (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

“(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

“(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

“(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

“(B) paragraph (1) shall not apply for purposes of applying section 1296.

“(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

“(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

“(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

“(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made (directly or indirectly) transfers of property (other than in a sale for full and adequate consideration) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

“(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out

the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.”

(2) The last sentence of subsection (c) of section 672 is amended by inserting “subsection (f) and” before “sections 674”.

(b) CREDIT FOR CERTAIN TAXES.—

(1) Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: “Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term ‘taxes imposed on the trust’ includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.”

(2) Paragraph (5) of section 901(b) is amended by adding at the end the following new sentence: “Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.”

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

“(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.”

(2) Section 665 is amended by striking subsection (c).

26 USC 643 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

26 USC 1491  
note.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

**SEC. 1905. INFORMATION REPORTING REGARDING FOREIGN GIFTS.**

(a) **IN GENERAL.**—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

**“SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.**

“(a) **IN GENERAL.**—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds \$10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

“(b) **FOREIGN GIFT.**—For purposes of this section, the term ‘foreign gift’ means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

“(c) **PENALTY FOR FAILURE TO FILE INFORMATION.**—

“(1) **IN GENERAL.**—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

“(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

“(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

“(2) **REASONABLE CAUSE EXCEPTION.**—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

“(d) **COST-OF-LIVING ADJUSTMENT.**—In the case of any taxable year beginning after December 31, 1996, the \$10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting ‘1995’ for ‘1992’.

“(e) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

“Sec. 6039F. Notice of large gifts received from foreign persons.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

26 USC 6039F  
note.

**SEC. 1906. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.**

(a) **MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.**—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

“(a) **GENERAL RULE.**—For purposes of the tax determined under section 667(a)—

“(1) **INTEREST DETERMINED USING UNDERPAYMENT RATES.**—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

“(2) **PERIOD.**—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

“(3) **APPLICABLE NUMBER OF YEARS.**—For purposes of paragraph (2)—

“(A) **IN GENERAL.**—The applicable number of years with respect to a distribution is the number determined by dividing—

“(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

“(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

“(B) **PRODUCT DESCRIBED.**—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

“(i) the undistributed net income for such year, and

“(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

“(4) **UNDISTRIBUTED INCOME YEAR.**—For purposes of this subsection, the term ‘undistributed income year’ means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

“(5) **DETERMINATION OF UNDISTRIBUTED NET INCOME.**—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

“(6) **PERIODS BEFORE 1996.**—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

“(A) by using an interest rate of 6 percent, and

“(B) without compounding until January 1, 1996.”.

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

“(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.”.

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

“(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

“(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

“(A) any grantor or beneficiary of such trust who is a United States person, or

“(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

“(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) CASH.—The term ‘cash’ includes foreign currencies and cash equivalents.

“(B) RELATED PERSON.—

“(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

“(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

“(C) EXCLUSION OF TAX-EXEMPTS.—The term ‘United States person’ does not include any entity exempt from tax under this chapter.

“(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

“(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.”.

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting “, 643(i),” before “or 1274” each place it appears.

(d) EFFECTIVE DATES.—

26 USC 668 note.

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

26 USC 643 note.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

26 USC 643 note.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities made after September 19, 1995.

#### SEC. 1907. RESIDENCE OF TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking “and” at the end of subparagraph (C) and by striking subparagraph (D) and by inserting the following new subparagraphs:

“(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

“(E) any trust if—

“(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

“(ii) one or more United States fiduciaries have the authority to control all substantial decisions of the trust.”

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

“(31) FOREIGN ESTATE OR TRUST.—

“(A) FOREIGN ESTATE.—The term ‘foreign estate’ means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

“(B) FOREIGN TRUST.—The term ‘foreign trust’ means any trust other than a trust described in subparagraph (E) of paragraph (30).”

26 USC 7701  
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act. Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

“If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.”

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 1491 note.

## **Subtitle J—Generalized System of Preferences**

GSP Renewal Act of 1996.

### **SEC. 1951. SHORT TITLE.**

This subtitle may be cited as the “GSP Renewal Act of 1996”.

19 USC 2101 note.

### **SEC. 1952. GENERALIZED SYSTEM OF PREFERENCES.**

(a) **IN GENERAL.**—Title V of the Trade Act of 1974 is amended to read as follows:

## **“TITLE V—GENERALIZED SYSTEM OF PREFERENCES**

### **“SEC. 501. AUTHORITY TO EXTEND PREFERENCES.**

19 USC 2461.

“The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

“(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

“(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

“(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

“(4) the extent of the beneficiary developing country’s competitiveness with respect to eligible articles.

### **“SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.**

19 USC 2462.

“(a) **AUTHORITY TO DESIGNATE COUNTRIES.**—

“(1) **BENEFICIARY DEVELOPING COUNTRIES.**—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

“(2) **LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.**—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

“(b) **COUNTRIES INELIGIBLE FOR DESIGNATION.**—

“(1) **SPECIFIC COUNTRIES.**—The following countries may not be designated as beneficiary developing countries for purposes of this title:

“(A) Australia.

“(B) Canada.

“(C) European Union member states.

“(D) Iceland.

“(E) Japan.

“(F) Monaco.

“(G) New Zealand.



“(H) Norway.

“(I) Switzerland.

President.

“(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

“(A) Such country is a Communist country, unless—

“(i) the products of such country receive non-discriminatory treatment,

“(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

“(iii) such country is not dominated or controlled by international communism.

“(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

“(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

“(ii) to cause serious disruption of the world economy.

“(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

“(D)(i) Such country—

“(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

“(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

“(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless clause (ii) applies.

“(ii) This clause applies if the President determines that—

“(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

“(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is other-

wise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

“(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

“(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

“(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

“(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

“(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

“(1) an expression by such country of its desire to be so designated;

“(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

“(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

“(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

“(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

“(6) the extent to which such country has taken action to—

“(A) reduce trade distorting investment practices and policies (including export performance requirements); and

“(B) reduce or eliminate barriers to trade in services;

and

“(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

“(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

“(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

“(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

President.

“(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

“(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a ‘high income’ country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

“(f) CONGRESSIONAL NOTIFICATION.—

“(1) NOTIFICATION OF DESIGNATION.—

“(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President’s intention to make such designation, together with the considerations entering into such decision.

“(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President’s intention to make such designation.

“(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country

of the President's intention to terminate such designation, together with the considerations entering into such decision.

**“SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.**

19 USC 2463.

**“(a) ELIGIBLE ARTICLES.—**

**“(1) DESIGNATION.—**

**“(A) IN GENERAL.—**Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

**“(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—**Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

**“(C) THREE-YEAR RULE.—**If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

**“(2) RULE OF ORIGIN.—**

**“(A) GENERAL RULE.—**The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

**“(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and**

**“(ii) the sum of—**

**“(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus**

**“(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries, is not less than 35 percent of the appraised value of such article at the time it is entered.**

**“(B) EXCLUSIONS.—**An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

**“(i) simple combining or packaging operations, or**

**“(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.**

“(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

“(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

“(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

“(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

“(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

“(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

“(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

“(C) Import-sensitive electronic articles.

“(D) Import-sensitive steel articles.

“(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

“(F) Import-sensitive semimanufactured and manufactured glass products.

“(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

“(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

“(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

“(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

“(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

“(2) COMPETITIVE NEED LIMITATION.—

“(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

“(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

“(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

“(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year, the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

“(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

“(I) for 1996, \$75,000,000, and

“(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus \$5,000,000.

“(B) COUNTRY DEFINED.—For purposes of this paragraph, the term ‘country’ does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

“(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

“(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

“(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

“(F) DE MINIMIS WAIVERS.—

“(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

“(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

“(I) for calendar year 1996, \$13,000,000, and

“(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus \$500,000.

“(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

“(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

“(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

“(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

“(C) publishes the determination described in subparagraph (B) in the Federal Register.

“(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

“(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

“(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

“(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

“(A) there has been a historical preferential trade relationship between the United States and such country,

“(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

“(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

“(4) LIMITATIONS ON WAIVERS.—

“(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

“(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this sub-

section with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

“(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of \$5,000 or more; or

“(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

“(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

“(i) entered duty-free under this title during such calendar year; and

“(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

“(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

“(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

“(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

**“SEC. 504. REVIEW AND REPORT TO CONGRESS.**

19 USC 2464.

“The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

President.

**“SEC. 505. DATE OF TERMINATION.**

19 USC 2465.

“No duty-free treatment provided under this title shall remain in effect after May 31, 1997.

**“SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.**

19 USC 2466.

“The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement meas-



ures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

19 USC 2467.

**"SEC. 507. DEFINITIONS.**

"For purposes of this title:

"(1) **BENEFICIARY DEVELOPING COUNTRY.**—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) **COUNTRY.**—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) **ENTERED.**—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) **INTERNATIONALLY RECOGNIZED WORKER RIGHTS.**—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) **LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.**—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2)."

(b) **TABLE OF CONTENTS.**—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

**"TITLE V—GENERALIZED SYSTEM OF PREFERENCES**

"Sec. 501. Authority to extend preferences.

"Sec. 502. Designation of beneficiary developing countries.

"Sec. 503. Designation of eligible articles.

"Sec. 504. Review and reports to Congress.

"Sec. 505. Date of termination.

"Sec. 506. Agricultural exports of beneficiary developing countries.

"Sec. 507. Definitions."

**SEC. 1953. EFFECTIVE DATE.**

(a) **IN GENERAL.**—The amendments made by this subtitle apply to articles entered on or after October 1, 1996.

(b) **RETROACTIVE APPLICATION.**—

19 USC 2461  
note.

(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (c)—

(A) any article that was entered—

- (i) after July 31, 1995, and
- (ii) before January 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and

(B) any article that was entered—

- (i) after December 31, 1995, and
- (ii) before October 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 (as amended by this subtitle) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.

(3) ENTRY.—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

- (1) to locate the entry; or
- (2) to reconstruct the entry if it cannot be located.

#### SEC. 1954. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitive-ness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking “(19 U.S.C. 2463(a), 2464(c)(3))” and inserting “(as in effect on July 31, 1995)”; and

(B) in paragraph (2), by striking “(19 U.S.C. 2464(c)(1))” and inserting the following: “(as in effect on July 31, 1995)”.

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking “502(a)(4)” and inserting “507(4)”.

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking “502(a)(4)” and inserting “507(4)”.

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking “sections 503(b) and 504(c)” and inserting “subsections (a), (c), and (d) of section 503”.

(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking “502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))” and inserting “502(f)(2) of the Trade Act of 1974”.

(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking “502(a)(4)” and inserting “507(4)”.

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “within the meaning of section 502” and inserting “under title V”.

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking “502(a)(4)” and inserting “507(4)”.

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking “502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))” and inserting “507(4) of the Trade Act of 1974”;

(B) in paragraph (2) by striking “505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))” and inserting “504 of the Trade Act of 1974”; and

(C) in paragraph (4) by striking “502(a)(4)” and inserting “507(4)”.

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p-4p(a)(1)) is amended by striking “502(a)(4)” and inserting “507(4)”.

(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended in subsections (a)(5)(F)(v) and (n)(1)(C) by striking “503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))” and inserting “503(b)(3) of the Trade Act of 1974”.

Employee  
Commuting  
Flexibility Act of  
1996.  
29 USC 251  
note.

#### SEC. 2101. SHORT TITLE.

This section and sections 2102 and 2103 may be cited as the “Employee Commuting Flexibility Act of 1996”.

#### SEC. 2102. PROPER COMPENSATION FOR USE OF EMPLOYER VEHICLES.

Section 4(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 254(a)) is amended by adding at the end the following: “For purposes of this subsection, the use of an employer’s vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee’s principal activities if the use of such vehicle for travel is within the normal commuting area for the employer’s business or establishment and the use of the employer’s vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.”.

29 USC 254 note.

#### SEC. 2103. EFFECTIVE DATE.

The amendment made by section 2101 shall take effect on the date of the enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 to an employee in any civil action brought before such date of enactment but pending on such date.

#### SEC. 2104. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the “Minimum Wage Increase Act of 1996”.

(b) AMENDMENT.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended to read as follows:

Minimum Wage  
Increase Act of  
1996.  
29 USC 201 note.

“(1) except as otherwise provided in this section, not less than \$4.25 an hour during the period ending on September 30, 1996, not less than \$4.75 an hour during the year beginning on October 1, 1996, and not less than \$5.15 an hour beginning September 1, 1997;”.

(c) CONFORMING AMENDMENT.—Section 6 of such Act (29 U.S.C. 206) is amended by striking subsection (c).

**SEC. 2105. FAIR LABOR STANDARDS ACT AMENDMENTS.**

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by striking the period at the end of paragraph (16) and inserting “; or” and by adding after that paragraph the following:

“(17) any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty is—

“(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

“(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

“(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

“(D) a combination of duties described in subparagraphs (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than \$27.63 an hour.”.

(b) TIP CREDIT.—The last sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking “previous sentence” and inserting “preceding 2 sentences” and by striking “(1)” and “(2)” and such section is amended by striking the next to last sentence and inserting the following: “In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employer shall be an amount equal to—

“(1) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and

“(2) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in paragraph (1) and the wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee.”.

(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

“(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially

employed by such employer, a wage which is not less than \$4.25 an hour.

“(2) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

“(3) Any employer who violates this subsection shall be considered to have violated section 15(a)(3).

“(4) This subsection shall only apply to an employee who has not attained the age of 20 years.”.

Approved August 20, 1996.

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LEGISLATIVE HISTORY—H.R. 3448:

HOUSE REPORTS: Nos. 104-586 (Comm. on Ways and Means) and 104-737 (Comm. of Conference).

SENATE REPORTS: No. 104-281 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 142 (1996):

May 22, considered and passed House.

July 8, 9, considered and passed Senate, amended.

Aug. 2, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 20, Presidential remarks and statement.

Public Law 104-189  
104th Congress

An Act

To redesignate the Dunning Post Office in Chicago, Illinois, as the "Roger P. McAuliffe Post Office".

Aug. 20, 1996  
[H.R. 3834]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REDESIGNATION.**

The Dunning Post Office, located at 6441 West Irving Park Road, Chicago, Illinois, shall be redesignated and known as the "Roger P. McAuliffe Post Office".

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in section 1 shall be deemed to be a reference to the "Roger P. McAuliffe Post Office".

Approved August 20, 1996.

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**LEGISLATIVE HISTORY—H.R. 3834:**

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 30, considered and passed House.

Aug. 2, considered and passed Senate.

Public Law 104-190  
104th Congress

An Act

Aug. 20, 1996  
[H.R. 3870]

To authorize the Agency for International Development to offer voluntary separation incentive payments to employees of that agency.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

5 USC 5597 note.

**SECTION 1. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.**

(a) **DEFINITIONS.**—For the purposes of this Act—

(1) the term “agency” means the Agency for International Development;

(2) the term “Administrator” means the Administrator, Agency for International Development; and

(3) the term “employee” means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 12 months, but does not include—

(A) any employee who, upon separation and application, would then be eligible for an immediate annuity under subchapter III of chapter 83 (except for section 8336(d)(2)) or chapter 84 (except for section 8414(b)(1)(B)) of title 5, United States Code, or corresponding provisions of another retirement system for employees of the agency;

(B) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(D) an employee who is to be separated involuntarily for misconduct or unacceptable performance, and to whom specific notice has been given with respect to that separation;

(E) an employee who, upon completing an additional period of service, as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(F) an employee who has previously received any voluntary separation incentive payment by the Government of the United States under this Act or any other authority and has not repaid such payment;

(G) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(H) any employee who, during the 24-month period preceding the date of separation, received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of such title 5.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The Administrator, before obligating any resources for voluntary separation incentive payments under this Act, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this Act may be paid by the agency to not more than 100 employees of such agency and only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment under this Act—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(ii) an amount determined by the agency head not to exceed \$25,000;

(D) may not be made except in the case of any employee who voluntarily separates (whether by retirement or resignation) before February 1, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.



(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this Act.

(2) DEFINITION.—For the purpose of paragraph (1), the term “final basic pay”, with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee’s final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this Act and accepts any employment for compensation with the Government of the United States, or who works for any agency of the Government of the United States through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual’s first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this Act. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of President.  
Management and Budget, shall monitor the agency and take  
any action necessary to ensure that the requirements of this  
subsection are met.

Approved August 20, 1996.

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LEGISLATIVE HISTORY—H.R. 3870:

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 29, considered and passed House.

Aug. 2, considered and passed Senate.

Public Law 104-191  
104th Congress

An Act

Aug. 21, 1996  
[H.R. 3103]

To amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

Health Insurance  
Portability and  
Accountability  
Act of 1996.  
42 USC 201 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Health Insurance Portability and Accountability Act of 1996”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY**

**Subtitle A—Group Market Rules**

**PART 1—PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS**

Sec. 101. Through the Employee Retirement Income Security Act of 1974.

**“PART 7—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS**

“Sec. 701. Increased portability through limitation on preexisting condition exclusions.

“Sec. 702. Prohibiting discrimination against individual participants and beneficiaries based on health status.

“Sec. 703. Guaranteed renewability in multiemployer plans and multiple employer welfare arrangements.

“Sec. 704. Preemption; State flexibility; construction.

“Sec. 705. Special rules relating to group health plans.

“Sec. 706. Definitions.

“Sec. 707. Regulations.”

Sec. 102. Through the Public Health Service Act.

**“TITLE XXVII—ASSURING PORTABILITY, AVAILABILITY, AND RENEWABILITY OF HEALTH INSURANCE COVERAGE**

**“PART A—GROUP MARKET REFORMS**

**“Subpart 1—Portability, Access, and Renewability Requirements**

“Sec. 2701. Increased portability through limitation on preexisting condition exclusions.

“Sec. 2702. Prohibiting discrimination against individual participants and beneficiaries based on health status.

**“Subpart 2—Provisions Applicable Only to Health Insurance Issuers**

“Sec. 2711. Guaranteed availability of coverage for employers in the group market.

"Sec. 2712. Guaranteed renewability of coverage for employers in the group market.

"Sec. 2713. Disclosure of information.

"Subpart 3—Exclusion of Plans; Enforcement; Preemption

"Sec. 2721. Exclusion of certain plans.

"Sec. 2722. Enforcement.

"Sec. 2723. Preemption; State flexibility; construction.

"PART C—DEFINITIONS; MISCELLANEOUS PROVISIONS

"Sec. 2791. Definitions.

"Sec. 2792. Regulations."

Sec. 103. Reference to implementation through the Internal Revenue Code of 1986.

Sec. 104. Assuring coordination.

Subtitle B—Individual Market Rules

Sec. 111. Amendment to Public Health Service Act.

"PART B—INDIVIDUAL MARKET RULES

"Sec. 2741. Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.

"Sec. 2742. Guaranteed renewability of individual health insurance coverage.

"Sec. 2743. Certification of coverage.

"Sec. 2744. State flexibility in individual market reforms.

"Sec. 2745. Enforcement.

"Sec. 2746. Preemption.

"Sec. 2747. General exceptions."

Subtitle C—General and Miscellaneous Provisions

Sec. 191. Health coverage availability studies.

Sec. 192. Report on Medicare reimbursement of telemedicine.

Sec. 193. Allowing federally-qualified HMOs to offer high deductible plans.

Sec. 194. Volunteer services provided by health professionals at free clinics.

Sec. 195. Findings; severability.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE;  
ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

Sec. 200. References in title.

Subtitle A—Fraud and Abuse Control Program

Sec. 201. Fraud and abuse control program.

Sec. 202. Medicare integrity program.

Sec. 203. Beneficiary incentive programs.

Sec. 204. Application of certain health antifraud and abuse sanctions to fraud and abuse against Federal health care programs.

Sec. 205. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 211. Mandatory exclusion from participation in Medicare and State health care programs.

Sec. 212. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from Medicare and State health care programs.

Sec. 213. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 214. Sanctions against practitioners and persons for failure to comply with statutory obligations.

Sec. 215. Intermediate sanctions for Medicare health maintenance organizations.

Sec. 216. Additional exception to anti-kickback penalties for risk-sharing arrangements.

Sec. 217. Criminal penalty for fraudulent disposition of assets in order to obtain medicaid benefits.

Sec. 218. Effective date.

Subtitle C—Data Collection

Sec. 221. Establishment of the health care fraud and abuse data collection program.

Subtitle D—Civil Monetary Penalties

Sec. 231. Social Security Act civil monetary penalties.

Sec. 232. Penalty for false certification for home health services.

Subtitle E—Revisions to Criminal Law

- Sec. 241. Definitions relating to Federal health care offense.
- Sec. 242. Health care fraud.
- Sec. 243. Theft or embezzlement.
- Sec. 244. False statements.
- Sec. 245. Obstruction of criminal investigations of health care offenses.
- Sec. 246. Laundering of monetary instruments.
- Sec. 247. Injunctive relief relating to health care offenses.
- Sec. 248. Authorized investigative demand procedures.
- Sec. 249. Forfeitures for Federal health care offenses.
- Sec. 250. Relation to ERISA authority.

Subtitle F—Administrative Simplification

- Sec. 261. Purpose.
- Sec. 262. Administrative simplification.

"PART C—ADMINISTRATIVE SIMPLIFICATION

- "Sec. 1171. Definitions.
- "Sec. 1172. General requirements for adoption of standards.
- "Sec. 1173. Standards for information transactions and data elements.
- "Sec. 1174. Timetables for adoption of standards.
- "Sec. 1175. Requirements.
- "Sec. 1176. General penalty for failure to comply with requirements and standards.
- "Sec. 1177. Wrongful disclosure of individually identifiable health information.
- "Sec. 1178. Effect on State law.
- "Sec. 1179. Processing payment transactions."
- Sec. 263. Changes in membership and duties of National Committee on Vital and Health Statistics.
- Sec. 264. Recommendations with respect to privacy of certain health information.

Subtitle G—Duplication and Coordination of Medicare-Related Plans

- Sec. 271. Duplication and coordination of Medicare-related plans.

TITLE III—TAX-RELATED HEALTH PROVISIONS

- Sec. 300. Amendment of 1986 Code.

Subtitle A—Medical Savings Accounts

- Sec. 301. Medical savings accounts.

Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

- Sec. 311. Increase in deduction for health insurance costs of self-employed individuals.

Subtitle C—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

- Sec. 321. Treatment of long-term care insurance.
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PART II—CONSUMER PROTECTION PROVISIONS

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Subtitle D—Treatment of Accelerated Death Benefits

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Subtitle E—State Insurance Pools

- Sec. 341. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.
- Sec. 342. Exemption from income tax for State-sponsored workmen's compensation reinsurance organizations.

## Subtitle F—Organizations Subject to Section 833

Sec. 351. Organizations subject to section 833.

## Subtitle G—IRA Distributions to the Unemployed

Sec. 361. Distributions from certain plans may be used without additional tax to pay financially devastating medical expenses.

## Subtitle H—Organ and Tissue Donation Information Included With Income Tax Refund Payments

Sec. 371. Organ and tissue donation information included with income tax refund payments.

## TITLE IV—APPLICATION AND ENFORCEMENT OF GROUP HEALTH PLAN REQUIREMENTS

## Subtitle A—Application and Enforcement of Group Health Plan Requirements

Sec. 401. Group health plan portability, access, and renewability requirements.

Sec. 402. Penalty on failure to meet certain group health plan requirements.

## Subtitle B—Clarification of Certain Continuation Coverage Requirements

Sec. 421. COBRA clarifications.

## TITLE V—REVENUE OFFSETS

Sec. 500. Amendment of 1986 Code.

## Subtitle A—Company-Owned Life Insurance

Sec. 501. Denial of deduction for interest on loans with respect to company-owned life insurance.

## Subtitle B—Treatment of Individuals Who Lose United States Citizenship

Sec. 511. Revision of income, estate, and gift taxes on individuals who lose United States citizenship.

Sec. 512. Information on individuals losing United States citizenship.

Sec. 513. Report on tax compliance by United States citizens and residents living abroad.

## Subtitle C—Repeal of Financial Institution Transition Rule to Interest Allocation Rules

Sec. 521. Repeal of financial institution transition rule to interest allocation rules.

## TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

### Subtitle A—Group Market Rules

## PART 1—PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

**SEC. 101. THROUGH THE EMPLOYEE RETIREMENT INCOME SECURITY  
ACT OF 1974.**

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

**“PART 7—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND  
RENEWABILITY REQUIREMENTS**

**“SEC. 701. INCREASED PORTABILITY THROUGH LIMITATION ON  
PREEXISTING CONDITION EXCLUSIONS.** 29 USC 1181.

“(a) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD;  
CREDITING FOR PERIODS OF PREVIOUS COVERAGE.—Subject to sub-  
section (d), a group health plan, and a health insurance issuer

offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

“(1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

“(2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

“(3) the period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any, as defined in subsection (c)(1)) applicable to the participant or beneficiary as of the enrollment date.

“(b) DEFINITIONS.—For purposes of this part—

“(1) PREEXISTING CONDITION EXCLUSION.—

“(A) IN GENERAL.—The term ‘preexisting condition exclusion’ means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

“(B) TREATMENT OF GENETIC INFORMATION.—Genetic information shall not be treated as a condition described in subsection (a)(1) in the absence of a diagnosis of the condition related to such information.

“(2) ENROLLMENT DATE.—The term ‘enrollment date’ means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

“(3) LATE ENROLLEE.—The term ‘late enrollee’ means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

“(A) the first period in which the individual is eligible to enroll under the plan, or

“(B) a special enrollment period under subsection (f).

“(4) WAITING PERIOD.—The term ‘waiting period’ means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

“(c) RULES RELATING TO CREDITING PREVIOUS COVERAGE.—

“(1) CREDITABLE COVERAGE DEFINED.—For purposes of this part, the term ‘creditable coverage’ means, with respect to an individual, coverage of the individual under any of the following:

“(A) A group health plan.

“(B) Health insurance coverage.

“(C) Part A or part B of title XVIII of the Social Security Act.

“(D) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

“(E) Chapter 55 of title 10, United States Code.

“(F) A medical care program of the Indian Health Service or of a tribal organization.

“(G) A State health benefits risk pool.

“(H) A health plan offered under chapter 89 of title 5, United States Code.

“(I) A public health plan (as defined in regulations).

“(J) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 706(c)).

“(2) NOT COUNTING PERIODS BEFORE SIGNIFICANT BREAKS IN COVERAGE.—

“(A) IN GENERAL.—A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

“(B) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraph (A) and subsection (d)(4), any period that an individual is in a waiting period for any coverage under a group health plan (or for group health insurance coverage) or is in an affiliation period (as defined in subsection (g)(2)) shall not be taken into account in determining the continuous period under subparagraph (A).

“(3) METHOD OF CREDITING COVERAGE.—

“(A) STANDARD METHOD.—Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3), a group health plan, and a health insurance issuer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

“(B) ELECTION OF ALTERNATIVE METHOD.—A group health plan, or a health insurance issuer offering group health insurance coverage, may elect to apply subsection (a)(3) based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan or issuer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

“(C) PLAN NOTICE.—In the case of an election with respect to a group health plan under subparagraph (B) (whether or not health insurance coverage is provided in connection with such plan), the plan shall—

“(i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and

“(ii) include in such statements a description of the effect of this election.

“(4) ESTABLISHMENT OF PERIOD.—Periods of creditable coverage with respect to an individual shall be established through



presentation of certifications described in subsection (e) or in such other manner as may be specified in regulations.

“(d) EXCEPTIONS.—

“(1) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

“(2) EXCLUSION NOT APPLICABLE TO CERTAIN ADOPTED CHILDREN.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

“(3) EXCLUSION NOT APPLICABLE TO PREGNANCY.—A group health plan, and health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

“(4) LOSS IF BREAK IN COVERAGE.—Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

“(e) CERTIFICATIONS AND DISCLOSURE OF COVERAGE.—

“(1) REQUIREMENT FOR CERTIFICATION OF PERIOD OF CREDITABLE COVERAGE.—

“(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide the certification described in subparagraph (B)—

“(i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,

“(ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and

“(iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

“(B) CERTIFICATION.—The certification described in this subparagraph is a written certification of—

“(i) the period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision, and

“(ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

“(C) ISSUER COMPLIANCE.—To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance issuer offering the coverage provides for such certification in accordance with this paragraph.

“(2) DISCLOSURE OF INFORMATION ON PREVIOUS BENEFITS.—

In the case of an election described in subsection (c)(3)(B) by a group health plan or health insurance issuer, if the plan or issuer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

“(A) upon request of such plan or issuer, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan or issuer information on coverage of classes and categories of health benefits available under such entity’s plan or coverage, and

“(B) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

“(3) REGULATIONS.—The Secretary shall establish rules to prevent an entity’s failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

“(f) SPECIAL ENROLLMENT PERIODS.—

“(1) INDIVIDUALS LOSING OTHER COVERAGE.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

“(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent.

“(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer (if applicable) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

“(C) The employee’s or dependent’s coverage described in subparagraph (A)—

“(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

“(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employ-

ment) or employer contributions toward such coverage were terminated.

“(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

“(2) FOR DEPENDENT BENEFICIARIES.—

“(A) IN GENERAL.—If—

“(i) a group health plan makes coverage available with respect to a dependent of an individual,

“(ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period), and

“(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

“(B) DEPENDENT SPECIAL ENROLLMENT PERIOD.—A dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

“(i) the date dependent coverage is made available, or

“(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

“(C) NO WAITING PERIOD.—If an individual seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

“(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

“(ii) in the case of a dependent's birth, as of the date of such birth; or

“(iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

“(g) USE OF AFFILIATION PERIOD BY HMOs AS ALTERNATIVE TO PREEXISTING CONDITION EXCLUSION.—

“(1) IN GENERAL.—In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if—

“(A) no preexisting condition exclusion is imposed with respect to coverage through the organization,

“(B) the period is applied uniformly without regard to any health status-related factors, and

“(C) such period does not exceed 2 months (or 3 months in the case of a late enrollee).

“(2) AFFILIATION PERIOD.—

“(A) DEFINED.—For purposes of this part, the term ‘affiliation period’ means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

“(B) BEGINNING.—Such period shall begin on the enrollment date.

“(C) RUNS CONCURRENTLY WITH WAITING PERIODS.—An affiliation period under a plan shall run concurrently with any waiting period under the plan.

“(3) ALTERNATIVE METHODS.—A health maintenance organization described in paragraph (1) may use alternative methods, from those described in such paragraph, to address adverse selection as approved by the State insurance commissioner or official or officials designated by the State to enforce the requirements of part A of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

**“SEC. 702. PROHIBITING DISCRIMINATION AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS.**

29 USC 1182.

“(a) IN ELIGIBILITY TO ENROLL.—

“(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

“(A) Health status.

“(B) Medical condition (including both physical and mental illnesses).

“(C) Claims experience.

“(D) Receipt of health care.

“(E) Medical history.

“(F) Genetic information.

“(G) Evidence of insurability (including conditions arising out of acts of domestic violence).

“(H) Disability.

“(2) NO APPLICATION TO BENEFITS OR EXCLUSIONS.—To the extent consistent with section 701, paragraph (1) shall not be construed—

“(A) to require a group health plan, or group health insurance coverage, to provide particular benefits other than those provided under the terms of such plan or coverage, or

“(B) to prevent such a plan or coverage from establishing limitations or restrictions on the amount, level, extent,

or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

“(3) CONSTRUCTION.—For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

“(b) IN PREMIUM CONTRIBUTIONS.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

“(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

“(A) to restrict the amount that an employer may be charged for coverage under a group health plan; or

“(B) to prevent a group health plan, and a health insurance issuer offering group health insurance coverage, from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

29 USC 1183.

**“SEC. 703. GUARANTEED RENEWABILITY IN MULTIEMPLOYER PLANS AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.**

“A group health plan which is a multiemployer plan or which is a multiple employer welfare arrangement may not deny an employer whose employees are covered under such a plan continued access to the same or different coverage under the terms of such a plan, other than—

“(1) for nonpayment of contributions;

“(2) for fraud or other intentional misrepresentation of material fact by the employer;

“(3) for noncompliance with material plan provisions;

“(4) because the plan is ceasing to offer any coverage in a geographic area;

“(5) in the case of a plan that offers benefits through a network plan, there is no longer any individual enrolled through the employer who lives, resides, or works in the service area of the network plan and the plan applies this paragraph uniformly without regard to the claims experience of employers or any health status-related factor in relation to such individuals or their dependents; and

“(6) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement.

29 USC 1191.

**“SEC. 704. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.**

“(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

“(1) IN GENERAL.—Subject to paragraph (2) and except as provided in subsection (b), this part shall not be construed to supersede any provision of State law which establishes,

implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this part.

“(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this part shall be construed to affect or modify the provisions of section 514 with respect to group health plans.

“(b) SPECIAL RULES IN CASE OF PORTABILITY REQUIREMENTS.—

“(1) IN GENERAL.—Subject to paragraph (2), the provisions of this part relating to health insurance coverage offered by a health insurance issuer supersede any provision of State law which establishes, implements, or continues in effect a standard or requirement applicable to imposition of a preexisting condition exclusion specifically governed by section 701 which differs from the standards or requirements specified in such section.

“(2) EXCEPTIONS.—Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provision of State law to the extent that such provision—

“(A) substitutes for the reference to ‘6-month period’ in section 701(a)(1) a reference to any shorter period of time;

“(B) substitutes for the reference to ‘12 months’ and ‘18 months’ in section 701(a)(2) a reference to any shorter period of time;

“(C) substitutes for the references to ‘63 days’ in sections 701 (c)(2)(A) and (d)(4)(A) a reference to any greater number of days;

“(D) substitutes for the reference to ‘30-day period’ in sections 701 (b)(2) and (d)(1) a reference to any greater period;

“(E) prohibits the imposition of any preexisting condition exclusion in cases not described in section 701(d) or expands the exceptions described in such section;

“(F) requires special enrollment periods in addition to those required under section 701(f); or

“(G) reduces the maximum period permitted in an affiliation period under section 701(g)(1)(B).

“(c) RULES OF CONSTRUCTION.—Nothing in this part shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

“(d) DEFINITIONS.—For purposes of this section—

“(1) STATE LAW.—The term ‘State law’ includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

“(2) STATE.—The term ‘State’ includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

29 USC 1191a.

**"SEC. 705. SPECIAL RULES RELATING TO GROUP HEALTH PLANS.**

"(a) **GENERAL EXCEPTION FOR CERTAIN SMALL GROUP HEALTH PLANS.**—The requirements of this part shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

"(b) **EXCEPTION FOR CERTAIN BENEFITS.**—The requirements of this part shall not apply to any group health plan (and group health insurance coverage) in relation to its provision of excepted benefits described in section 706(c)(1).

"(c) **EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.**—

"(1) **LIMITED, EXCEPTED BENEFITS.**—The requirements of this part shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 706(c)(2) if the benefits—

"(A) are provided under a separate policy, certificate, or contract of insurance; or

"(B) are otherwise not an integral part of the plan.

"(2) **NONCOORDINATED, EXCEPTED BENEFITS.**—The requirements of this part shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 706(c)(3) if all of the following conditions are met:

"(A) The benefits are provided under a separate policy, certificate, or contract of insurance.

"(B) There is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor.

"(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

"(3) **SUPPLEMENTAL EXCEPTED BENEFITS.**—The requirements of this part shall not apply to any group health plan (and group health insurance coverage) in relation to its provision of excepted benefits described in section 706(c)(4) if the benefits are provided under a separate policy, certificate, or contract of insurance.

"(d) **TREATMENT OF PARTNERSHIPS.**—For purposes of this part—

"(1) **TREATMENT AS A GROUP HEALTH PLAN.**—Any plan, fund, or program which would not be (but for this subsection) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care (including items and services paid for as medical care) to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (2)) as an employee welfare benefit plan which is a group health plan.

"(2) **EMPLOYER.**—In the case of a group health plan, the term 'employer' also includes the partnership in relation to any partner.

“(3) PARTICIPANTS OF GROUP HEALTH PLANS.—In the case of a group health plan, the term ‘participant’ also includes—

“(A) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

“(B) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual, if such individual is, or may become, eligible to receive a benefit under the plan or such individual’s beneficiaries may be eligible to receive any such benefit.

“SEC. 706. DEFINITIONS.

29 USC 1191b.

“(a) GROUP HEALTH PLAN.—For purposes of this part—

“(1) IN GENERAL.—The term ‘group health plan’ means an employee welfare benefit plan to the extent that the plan provides medical care (as defined in paragraph (2) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

“(2) MEDICAL CARE.—The term ‘medical care’ means amounts paid for—

“(A) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

“(B) amounts paid for transportation primarily for and essential to medical care referred to in subparagraph (A), and

“(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

“(b) DEFINITIONS RELATING TO HEALTH INSURANCE.—For purposes of this part—

“(1) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

“(2) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2)). Such term does not include a group health plan.

“(3) HEALTH MAINTENANCE ORGANIZATION.—The term ‘health maintenance organization’ means—

“(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

“(B) an organization recognized under State law as a health maintenance organization, or

“(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.



"(4) GROUP HEALTH INSURANCE COVERAGE.—The term 'group health insurance coverage' means, in connection with a group health plan, health insurance coverage offered in connection with such plan.

"(c) EXCEPTED BENEFITS.—For purposes of this part, the term 'excepted benefits' means benefits under one or more (or any combination thereof) of the following:

"(1) BENEFITS NOT SUBJECT TO REQUIREMENTS.—

"(A) Coverage only for accident, or disability income insurance, or any combination thereof.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Liability insurance, including general liability insurance and automobile liability insurance.

"(D) Workers' compensation or similar insurance.

"(E) Automobile medical payment insurance.

"(F) Credit-only insurance.

"(G) Coverage for on-site medical clinics.

"(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"(2) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED SEPARATELY.—

"(A) Limited scope dental or vision benefits.

"(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

"(C) Such other similar, limited benefits as are specified in regulations.

"(3) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS INDEPENDENT, NONCOORDINATED BENEFITS.—

"(A) Coverage only for a specified disease or illness.

"(B) Hospital indemnity or other fixed indemnity insurance.

"(4) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS SEPARATE INSURANCE POLICY.—Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan.

"(d) OTHER DEFINITIONS.—For purposes of this part—

"(1) COBRA CONTINUATION PROVISION.—The term 'COBRA continuation provision' means any of the following:

"(A) Part 6 of this subtitle.

"(B) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

"(C) Title XXII of the Public Health Service Act.

"(2) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' means any of the factors described in section 702(a)(1).

"(3) NETWORK PLAN.—The term 'network plan' means health insurance coverage offered by a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided,

in whole or in part, through a defined set of providers under contract with the issuer.

“(4) PLACED FOR ADOPTION.—The term ‘placement’, or being ‘placed’, for adoption, has the meaning given such term in section 609(c)(3)(B).

“SEC. 707. REGULATIONS.

29 USC 1191c.

“The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this part. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this part.”.

(b) ENFORCEMENT WITH RESPECT TO HEALTH INSURANCE ISSUERS.—Section 502(b) of such Act (29 U.S.C. 1132(b)) is amended by adding at the end the following new paragraph:

“(3) The Secretary is not authorized to enforce under this part any requirement of part 7 against a health insurance issuer offering health insurance coverage in connection with a group health plan (as defined in section 706(a)(1)). Nothing in this paragraph shall affect the authority of the Secretary to issue regulations to carry out such part.”.

(c) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of such Act (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking “102(a)(1),” and inserting “102(a)(1) (other than a material reduction in covered services or benefits provided in the case of a group health plan (as defined in section 706(a)(1))),”; and

(B) by adding at the end the following new sentences:  
“If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided under a group health plan (as defined in section 706(a)(1)), a summary description of such modification or change shall be furnished to participants and beneficiaries not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Portability and Accountability Act of 1996, providing alternative mechanisms to delivery by mail through which group health plans (as so defined) may notify participants and beneficiaries of material reductions in covered services or benefits.”.

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended—

(A) by inserting “in the case of a group health plan (as defined in section 706(a)(1)), whether a health insurance issuer (as defined in section 706(b)(2)) is responsible for the financing or administration (including payment of claims) of the plan and (if so) the name and address of such issuer;” after “type of administration of the plan;”; and

(B) by inserting “including the office at the Department of Labor through which participants and beneficiaries may seek assistance or information regarding their rights under this Act and the Health Insurance Portability and Accountability Act of 1996 with respect to health benefits that are offered through a group health plan (as defined in section 706(a)(1))” after “benefits under the plan”.

(d) TREATMENT OF HEALTH INSURANCE ISSUERS OFFERING HEALTH INSURANCE COVERAGE TO NONCOVERED PLANS.—Section 4(b) of such Act (29 U.S.C. 1003(b)) is amended by adding at the end (after and below paragraph (5)) the following:

“The provisions of part 7 of subtitle B shall not apply to a health insurance issuer (as defined in section 706(b)(2)) solely by reason of health insurance coverage (as defined in section 706(b)(1)) provided by such issuer in connection with a group health plan (as defined in section 706(a)(1)) if the provisions of this title do not apply to such group health plan.”.

(e) REPORTING AND ENFORCEMENT WITH RESPECT TO CERTAIN ARRANGEMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended—

(A) by redesignating subsection (g) as subsection (h), and

(B) by inserting after subsection (f) the following new subsection:

“(g) REPORTING BY CERTAIN ARRANGEMENTS.—The Secretary may, by regulation, require multiple employer welfare arrangements providing benefits consisting of medical care (within the meaning of section 706(a)(2)) which are not group health plans to report, not more frequently than annually, in such form and such manner as the Secretary may require for the purpose of determining the extent to which the requirements of part 7 are being carried out in connection with such benefits.”.

(2) ENFORCEMENT.—

(A) IN GENERAL.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(i) in subsection (a)(6), by striking “under subsection (c)(2) or (i) or (l)” and inserting “under paragraph (2), (4), or (5) of subsection (c) or under subsection (i) or (l)”; and

(ii) in the last 2 sentences of subsection (c), by striking “For purposes of this paragraph” and all that follows through “The Secretary and” and inserting the following:

“(5) The Secretary may assess a civil penalty against any person of up to \$1,000 a day from the date of the person’s failure or refusal to file the information required to be filed by such person with the Secretary under regulations prescribed pursuant to section 101(g).

“(6) The Secretary and”.

(B) TECHNICAL AND CONFORMING AMENDMENT.—Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by adding at the end the following sentence: “For purposes of this paragraph, each violation described in subparagraph (A) with respect to any single participant, and each violation described in subparagraph (B) with respect to any

single participant or beneficiary, shall be treated as a separate violation.”.

(3) COORDINATION.—Section 506 of such Act (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

“(c) COORDINATION OF ENFORCEMENT WITH STATES WITH RESPECT TO CERTAIN ARRANGEMENTS.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary’s authority under sections 502 and 504 to enforce the requirements under part 7 in connection with multiple employer welfare arrangements, providing medical care (within the meaning of section 706(a)(2)), which are not group health plans.”.

(f) CONFORMING AMENDMENTS.—

(1) Section 514(b) of such Act (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

“(9) For additional provisions relating to group health plans, see section 704.”.

(2)(A) Part 6 of subtitle B of title I of such Act (29 U.S.C. 1161 et seq.) is amended by striking the heading and inserting the following:

“PART 6—CONTINUATION COVERAGE AND ADDITIONAL STANDARDS  
FOR GROUP HEALTH PLANS”.

(B) The table of contents in section 1 of such Act is amended by striking the item relating to the heading for part 6 of subtitle B of title I and inserting the following:

“PART 6—CONTINUATION COVERAGE AND ADDITIONAL STANDARDS FOR GROUP  
HEALTH PLANS”.

(3) The table of contents in section 1 of such Act (as amended by the preceding provisions of this section) is amended by inserting after the items relating to part 6 the following new items:

“PART 7—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY  
REQUIREMENTS

- “Sec. 701. Increased portability through limitation on preexisting condition exclusions.
- “Sec. 702. Prohibiting discrimination against individual participants and beneficiaries based on health status.
- “Sec. 703. Guaranteed renewability in multiemployer plans and multiple employer welfare arrangements.
- “Sec. 704. Preemption; State flexibility; construction.
- “Sec. 705. Special rules relating to group health plans.
- “Sec. 706. Definitions.
- “Sec. 707. Regulations.”.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this section, this section (and the amendments made by this section) shall apply with respect to group health plans for plan years beginning after June 30, 1997.

29 USC 1181  
note.

(2) DETERMINATION OF CREDITABLE COVERAGE.—

(A) PERIOD OF COVERAGE.—

(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by this section) in determining creditable coverage.

(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of Labor, consistent with section 104, shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

(B) CERTIFICATIONS, ETC.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 701 of the Employee Retirement Income Security Act of 1974 (as added by this section) shall apply to events occurring after June 30, 1996.

(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification required to be provided under such subsection before June 1, 1997.

(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2), in the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, part 7 of subtitle B of title I of Employee Retirement Income Security Act of 1974 (other than section 701(e) thereof) shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any require-

ment of such part shall not be treated as a termination of such collective bargaining agreement.

(4) **TIMELY REGULATIONS.**—The Secretary of Labor, consistent with section 104, shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section.

(5) **LIMITATION ON ACTIONS.**—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.

**SEC. 102. THROUGH THE PUBLIC HEALTH SERVICE ACT.**

(a) **IN GENERAL.**—The Public Health Service Act is amended by adding at the end the following new title:

**“TITLE XXVII—ASSURING PORTABILITY,  
AVAILABILITY, AND RENEWABILITY  
OF HEALTH INSURANCE COVERAGE**

**“PART A—GROUP MARKET REFORMS**

**“Subpart 1—Portability, Access, and Renewability Requirements**

**“SEC. 2701. INCREASED PORTABILITY THROUGH LIMITATION ON  
PREEXISTING CONDITION EXCLUSIONS.** 42 USC 300gg.

“(a) **LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD; CREDITING FOR PERIODS OF PREVIOUS COVERAGE.**—Subject to subsection (d), a group health plan, and a health insurance issuer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

“(1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

“(2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

“(3) the period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any, as defined in subsection (c)(1)) applicable to the participant or beneficiary as of the enrollment date.

“(b) **DEFINITIONS.**—For purposes of this part—

“(1) **PREEXISTING CONDITION EXCLUSION.**—

“(A) **IN GENERAL.**—The term ‘preexisting condition exclusion’ means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

“(B) TREATMENT OF GENETIC INFORMATION.—Genetic information shall not be treated as a condition described in subsection (a)(1) in the absence of a diagnosis of the condition related to such information.

“(2) ENROLLMENT DATE.—The term ‘enrollment date’ means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

“(3) LATE ENROLLEE.—The term ‘late enrollee’ means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

“(A) the first period in which the individual is eligible to enroll under the plan, or

“(B) a special enrollment period under subsection (f).

“(4) WAITING PERIOD.—The term ‘waiting period’ means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

“(c) RULES RELATING TO CREDITING PREVIOUS COVERAGE.—

“(1) CREDITABLE COVERAGE DEFINED.—For purposes of this title, the term ‘creditable coverage’ means, with respect to an individual, coverage of the individual under any of the following:

“(A) A group health plan.

“(B) Health insurance coverage.

“(C) Part A or part B of title XVIII of the Social Security Act.

“(D) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

“(E) Chapter 55 of title 10, United States Code.

“(F) A medical care program of the Indian Health Service or of a tribal organization.

“(G) A State health benefits risk pool.

“(H) A health plan offered under chapter 89 of title 5, United States Code.

“(I) A public health plan (as defined in regulations).

“(J) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c)).

“(2) NOT COUNTING PERIODS BEFORE SIGNIFICANT BREAKS IN COVERAGE.—

“(A) IN GENERAL.—A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

“(B) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraph (A) and subsection (d)(4), any period that an individual is in a waiting period for any coverage under a group health plan (or for group health insurance coverage) or is in an affiliation period (as defined in subsection (g)(2)) shall not be taken into

account in determining the continuous period under subparagraph (A).

“(3) METHOD OF CREDITING COVERAGE.—

“(A) STANDARD METHOD.—Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3), a group health plan, and a health insurance issuer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

“(B) ELECTION OF ALTERNATIVE METHOD.—A group health plan, or a health insurance issuer offering group health insurance, may elect to apply subsection (a)(3) based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan or issuer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

“(C) PLAN NOTICE.—In the case of an election with respect to a group health plan under subparagraph (B) (whether or not health insurance coverage is provided in connection with such plan), the plan shall—

“(i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and

“(ii) include in such statements a description of the effect of this election.

“(D) ISSUER NOTICE.—In the case of an election under subparagraph (B) with respect to health insurance coverage offered by an issuer in the small or large group market, the issuer—

“(i) shall prominently state in any disclosure statements concerning the coverage, and to each employer at the time of the offer or sale of the coverage, that the issuer has made such election, and

“(ii) shall include in such statements a description of the effect of such election.

“(4) ESTABLISHMENT OF PERIOD.—Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (e) or in such other manner as may be specified in regulations.

“(d) EXCEPTIONS.—

“(1) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

“(2) EXCLUSION NOT APPLICABLE TO CERTAIN ADOPTED CHILDREN.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption



before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

“(3) EXCLUSION NOT APPLICABLE TO PREGNANCY.—A group health plan, and health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

“(4) LOSS IF BREAK IN COVERAGE.—Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

“(e) CERTIFICATIONS AND DISCLOSURE OF COVERAGE.—

“(1) REQUIREMENT FOR CERTIFICATION OF PERIOD OF CREDITABLE COVERAGE.—

“(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide the certification described in subparagraph (B)—

“(i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,

“(ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and

“(iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

“(B) CERTIFICATION.—The certification described in this subparagraph is a written certification of—

“(i) the period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision, and

“(ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

“(C) ISSUER COMPLIANCE.—To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance issuer offering the coverage provides for such certification in accordance with this paragraph.

“(2) DISCLOSURE OF INFORMATION ON PREVIOUS BENEFITS.—In the case of an election described in subsection (c)(3)(B) by a group health plan or health insurance issuer, if the plan or issuer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

“(A) upon request of such plan or issuer, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan or issuer

information on coverage of classes and categories of health benefits available under such entity's plan or coverage, and

"(B) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

"(3) REGULATIONS.—The Secretary shall establish rules to prevent an entity's failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

"(f) SPECIAL ENROLLMENT PERIODS.—

"(1) INDIVIDUALS LOSING OTHER COVERAGE.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

"(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent.

"(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer (if applicable) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

"(C) The employee's or dependent's coverage described in subparagraph (A)—

"(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

"(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment) or employer contributions toward such coverage were terminated.

"(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

"(2) FOR DEPENDENT BENEFICIARIES.—

"(A) IN GENERAL.—If—

"(i) a group health plan makes coverage available with respect to a dependent of an individual,

"(ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming a participant under the plan and is eligible to be

enrolled under the plan but for a failure to enroll during a previous enrollment period), and

“(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

“(B) DEPENDENT SPECIAL ENROLLMENT PERIOD.—A dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

“(i) the date dependent coverage is made available, or

“(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

“(C) NO WAITING PERIOD.—If an individual seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

“(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

“(ii) in the case of a dependent's birth, as of the date of such birth; or

“(iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

“(g) USE OF AFFILIATION PERIOD BY HMOs AS ALTERNATIVE TO PREEXISTING CONDITION EXCLUSION.—

“(1) IN GENERAL.—A health maintenance organization which offers health insurance coverage in connection with a group health plan and which does not impose any preexisting condition exclusion allowed under subsection (a) with respect to any particular coverage option may impose an affiliation period for such coverage option, but only if—

“(A) such period is applied uniformly without regard to any health status-related factors; and

“(B) such period does not exceed 2 months (or 3 months in the case of a late enrollee).

“(2) AFFILIATION PERIOD.—

“(A) DEFINED.—For purposes of this title, the term ‘affiliation period’ means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

“(B) BEGINNING.—Such period shall begin on the enrollment date.

“(C) RUNS CONCURRENTLY WITH WAITING PERIODS.—An affiliation period under a plan shall run concurrently with any waiting period under the plan.

“(3) ALTERNATIVE METHODS.—A health maintenance organization described in paragraph (1) may use alternative methods, from those described in such paragraph, to address adverse selection as approved by the State insurance commissioner or official or officials designated by the State to enforce the requirements of this part for the State involved with respect to such issuer.

**“SEC. 2702. PROHIBITING DISCRIMINATION AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS.** 42 USC 300gg-1.

“(a) IN ELIGIBILITY TO ENROLL.—

“(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

“(A) Health status.

“(B) Medical condition (including both physical and mental illnesses).

“(C) Claims experience.

“(D) Receipt of health care.

“(E) Medical history.

“(F) Genetic information.

“(G) Evidence of insurability (including conditions arising out of acts of domestic violence).

“(H) Disability.

“(2) NO APPLICATION TO BENEFITS OR EXCLUSIONS.—To the extent consistent with section 701, paragraph (1) shall not be construed—

“(A) to require a group health plan, or group health insurance coverage, to provide particular benefits other than those provided under the terms of such plan or coverage, or

“(B) to prevent such a plan or coverage from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

“(3) CONSTRUCTION.—For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

“(b) IN PREMIUM CONTRIBUTIONS.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an

individual enrolled under the plan as a dependent of the individual.

“(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

“(A) to restrict the amount that an employer may be charged for coverage under a group health plan; or

“(B) to prevent a group health plan, and a health insurance issuer offering group health insurance coverage, from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

“Subpart 2—Provisions Applicable Only to Health Insurance Issuers

42 USC 300gg-11.

“SEC. 2711. GUARANTEED AVAILABILITY OF COVERAGE FOR EMPLOYERS IN THE GROUP MARKET.

“(a) ISSUANCE OF COVERAGE IN THE SMALL GROUP MARKET.—

“(1) IN GENERAL.—Subject to subsections (c) through (f), each health insurance issuer that offers health insurance coverage in the small group market in a State—

“(A) must accept every small employer (as defined in section 2791(e)(4)) in the State that applies for such coverage; and

“(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (2)) who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and may not place any restriction which is inconsistent with section 2702 on an eligible individual being a participant or beneficiary.

“(2) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term ‘eligible individual’ means, with respect to a health insurance issuer that offers health insurance coverage to a small employer in connection with a group health plan in the small group market, such an individual in relation to the employer as shall be determined—

“(A) in accordance with the terms of such plan,

“(B) as provided by the issuer under rules of the issuer which are uniformly applicable in a State to small employers in the small group market, and

“(C) in accordance with all applicable State laws governing such issuer and such market.

“(b) ASSURING ACCESS IN THE LARGE GROUP MARKET.—

“(1) REPORTS TO HHS.—The Secretary shall request that the chief executive officer of each State submit to the Secretary, by not later December 31, 2000, and every 3 years thereafter a report on—

“(A) the access of large employers to health insurance coverage in the State, and

“(B) the circumstances for lack of access (if any) of large employers (or one or more classes of such employers) in the State to such coverage.

“(2) TRIENNIAL REPORTS TO CONGRESS.—The Secretary, based on the reports submitted under paragraph (1) and such other information as the Secretary may use, shall prepare

and submit to Congress, every 3 years, a report describing the extent to which large employers (and classes of such employers) that seek health insurance coverage in the different States are able to obtain access to such coverage. Such report shall include such recommendations as the Secretary determines to be appropriate.

“(3) GAO REPORT ON LARGE EMPLOYER ACCESS TO HEALTH INSURANCE COVERAGE.—The Comptroller General shall provide for a study of the extent to which classes of large employers in the different States are able to obtain access to health insurance coverage and the circumstances for lack of access (if any) to such coverage. The Comptroller General shall submit to Congress a report on such study not later than 18 months after the date of the enactment of this title.

“(c) SPECIAL RULES FOR NETWORK PLANS.—

“(1) IN GENERAL.—In the case of a health insurance issuer that offers health insurance coverage in the small group market through a network plan, the issuer may—

“(A) limit the employers that may apply for such coverage to those with eligible individuals who live, work, or reside in the service area for such network plan; and

“(B) within the service area of such plan, deny such coverage to such employers if the issuer has demonstrated, if required, to the applicable State authority that—

“(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

“(ii) it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees (and their dependents) or any health status-related factor relating to such employees and dependents.

“(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An issuer, upon denying health insurance coverage in any service area in accordance with paragraph (1)(B), may not offer coverage in the small group market within such service area for a period of 180 days after the date such coverage is denied.

“(d) APPLICATION OF FINANCIAL CAPACITY LIMITS.—

“(1) IN GENERAL.—A health insurance issuer may deny health insurance coverage in the small group market if the issuer has demonstrated, if required, to the applicable State authority that—

“(A) it does not have the financial reserves necessary to underwrite additional coverage; and

“(B) it is applying this paragraph uniformly to all employers in the small group market in the State consistent with applicable State law and without regard to the claims experience of those employers and their employees (and their dependents) or any health status-related factor relating to such employees and dependents.

“(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—A health insurance issuer upon denying health insurance coverage in connection with group health plans in accordance with paragraph (1) in a State may not offer coverage in connection with group health plans in the small group market in the State for a period of 180 days after the date such coverage

is denied or until the issuer has demonstrated to the applicable State authority, if required under applicable State law, that the issuer has sufficient financial reserves to underwrite additional coverage, whichever is later. An applicable State authority may provide for the application of this subsection on a service-area-specific basis.

**“(e) EXCEPTION TO REQUIREMENT FOR FAILURE TO MEET CERTAIN MINIMUM PARTICIPATION OR CONTRIBUTION RULES.—**

**“(1) IN GENERAL.**—Subsection (a) shall not be construed to preclude a health insurance issuer from establishing employer contribution rules or group participation rules for the offering of health insurance coverage in connection with a group health plan in the small group market, as allowed under applicable State law.

**“(2) RULES DEFINED.**—For purposes of paragraph (1)—

**“(A) the term ‘employer contribution rule’ means a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of participants and beneficiaries; and**

**“(B) the term ‘group participation rule’ means a requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer.**

**“(f) EXCEPTION FOR COVERAGE OFFERED ONLY TO BONA FIDE ASSOCIATION MEMBERS.**—Subsection (a) shall not apply to health insurance coverage offered by a health insurance issuer if such coverage is made available in the small group market only through one or more bona fide associations (as defined in section 2791(d)(3)).

42 USC 300gg-  
12.

**“SEC. 2712. GUARANTEED RENEWABILITY OF COVERAGE FOR EMPLOYERS IN THE GROUP MARKET.**

**“(a) IN GENERAL.**—Except as provided in this section, if a health insurance issuer offers health insurance coverage in the small or large group market in connection with a group health plan, the issuer must renew or continue in force such coverage at the option of the plan sponsor of the plan.

**“(b) GENERAL EXCEPTIONS.**—A health insurance issuer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the small or large group market based only on one or more of the following:

**“(1) NONPAYMENT OF PREMIUMS.**—The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

**“(2) FRAUD.**—The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

**“(3) VIOLATION OF PARTICIPATION OR CONTRIBUTION RULES.**—The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules, as permitted under section 2711(e) in the case of the small group market or pursuant to applicable State law in the case of the large group market.

**“(4) TERMINATION OF COVERAGE.**—The issuer is ceasing to offer coverage in such market in accordance with subsection (c) and applicable State law.

"(5) MOVEMENT OUTSIDE SERVICE AREA.—In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with such plan who lives, resides, or works in the service area of the issuer (or in the area for which the issuer is authorized to do business) and, in the case of the small group market, the issuer would deny enrollment with respect to such plan under section 2711(c)(1)(A).

"(6) ASSOCIATION MEMBERSHIP CEASES.—In the case of health insurance coverage that is made available in the small or large group market (as the case may be) only through one or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor relating to any covered individual.

"(c) REQUIREMENTS FOR UNIFORM TERMINATION OF COVERAGE.—

"(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which an issuer decides to discontinue offering a particular type of group health insurance coverage offered in the small or large group market, coverage of such type may be discontinued by the issuer in accordance with applicable State law in such market only if—

"(A) the issuer provides notice to each plan sponsor provided coverage of this type in such market (and participants and beneficiaries covered under such coverage) of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

"(B) the issuer offers to each plan sponsor provided coverage of this type in such market, the option to purchase all (or, in the case of the large group market, any) other health insurance coverage currently being offered by the issuer to a group health plan in such market; and

"(C) in exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph (B), the issuer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

"(2) DISCONTINUANCE OF ALL COVERAGE.—

"(A) IN GENERAL.—In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the small group market or the large group market, or both markets, in a State, health insurance coverage may be discontinued by the issuer only in accordance with applicable State law and if—

"(i) the issuer provides notice to the applicable State authority and to each plan sponsor (and participants and beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of the discontinuation of such coverage; and

"(ii) all health insurance issued or delivered for issuance in the State in such market (or markets) are discontinued and coverage under such health insur-



ance coverage in such market (or markets) is not renewed.

“(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in a market, the issuer may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

“(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan—

“(1) in the large group market; or

“(2) in the small group market if, for coverage that is available in such market other than only through one or more bona fide associations, such modification is consistent with State law and effective on a uniform basis among group health plans with that product.

“(e) APPLICATION TO COVERAGE OFFERED ONLY THROUGH ASSOCIATIONS.—In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the small or large group market to employers only through one or more associations, a reference to ‘plan sponsor’ is deemed, with respect to coverage provided to an employer member of the association, to include a reference to such employer.

42 USC 300gg-  
13.

“SEC. 2713. DISCLOSURE OF INFORMATION.

“(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUERS.—In connection with the offering of any health insurance coverage to a small employer, a health insurance issuer—

“(1) shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of the availability of information described in subsection (b), and

“(2) upon request of such a small employer, provide such information.

“(b) INFORMATION DESCRIBED.—

“(1) IN GENERAL.—Subject to paragraph (3), with respect to a health insurance issuer offering health insurance coverage to a small employer, information described in this subsection is information concerning—

“(A) the provisions of such coverage concerning issuer’s right to change premium rates and the factors that may affect changes in premium rates;

“(B) the provisions of such coverage relating to renewability of coverage;

“(C) the provisions of such coverage relating to any preexisting condition exclusion; and

“(D) the benefits and premiums available under all health insurance coverage for which the employer is qualified.

“(2) FORM OF INFORMATION.—Information under this subsection shall be provided to small employers in a manner determined to be understandable by the average small employer, and shall be sufficient to reasonably inform small employers of their rights and obligations under the health insurance coverage.

“(3) EXCEPTION.—An issuer is not required under this section to disclose any information that is proprietary and trade secret information under applicable law.

“Subpart 3—Exclusion of Plans; Enforcement; Preemption

“SEC. 2721. EXCLUSION OF CERTAIN PLANS.

42 USC 300gg-  
21.

“(a) EXCEPTION FOR CERTAIN SMALL GROUP HEALTH PLANS.—The requirements of subparts 1 and 2 shall not apply to any group health plan (and health insurance coverage offered in connection with a group health plan) for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

“(b) LIMITATION ON APPLICATION OF PROVISIONS RELATING TO GROUP HEALTH PLANS.—

“(1) IN GENERAL.—The requirements of subparts 1 and 2 shall apply with respect to group health plans only—

“(A) subject to paragraph (2), in the case of a plan that is a nonfederal governmental plan, and

“(B) with respect to health insurance coverage offered in connection with a group health plan (including such a plan that is a church plan or a governmental plan).

“(2) TREATMENT OF NONFEDERAL GOVERNMENTAL PLANS.—

“(A) ELECTION TO BE EXCLUDED.—If the plan sponsor of a nonfederal governmental plan which is a group health plan to which the provisions of subparts 1 and 2 otherwise apply makes an election under this subparagraph (in such form and manner as the Secretary may by regulations prescribe), then the requirements of such subparts insofar as they apply directly to group health plans (and not merely to group health insurance coverage) shall not apply to such governmental plans for such period except as provided in this paragraph.

“(B) PERIOD OF ELECTION.—An election under subparagraph (A) shall apply—

“(i) for a single specified plan year, or

“(ii) in the case of a plan provided pursuant to a collective bargaining agreement, for the term of such agreement.

An election under clause (i) may be extended through subsequent elections under this paragraph.

“(C) NOTICE TO ENROLLEES.—Under such an election, the plan shall provide for—

“(i) notice to enrollees (on an annual basis and at the time of enrollment under the plan) of the fact and consequences of such election, and

“(ii) certification and disclosure of creditable coverage under the plan with respect to enrollees in accordance with section 2701(e).

“(c) EXCEPTION FOR CERTAIN BENEFITS.—The requirements of subparts 1 and 2 shall not apply to any group health plan (or group health insurance coverage) in relation to its provision of excepted benefits described in section 2791(c)(1).

“(d) EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.—

“(1) LIMITED, EXCEPTED BENEFITS.—The requirements of subparts 1 and 2 shall not apply to any group health plan

(and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 2791(c)(2) if the benefits—

“(A) are provided under a separate policy, certificate, or contract of insurance; or

“(B) are otherwise not an integral part of the plan.

“(2) NONCOORDINATED, EXCEPTED BENEFITS.—The requirements of subparts 1 and 2 shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 2791(c)(3) if all of the following conditions are met:

“(A) The benefits are provided under a separate policy, certificate, or contract of insurance.

“(B) There is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor.

“(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

“(3) SUPPLEMENTAL EXCEPTED BENEFITS.—The requirements of this part shall not apply to any group health plan (and group health insurance coverage) in relation to its provision of excepted benefits described in section 2791(c)(4) if the benefits are provided under a separate policy, certificate, or contract of insurance.

“(e) TREATMENT OF PARTNERSHIPS.—For purposes of this part—

“(1) TREATMENT AS A GROUP HEALTH PLAN.—Any plan, fund, or program which would not be (but for this subsection) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care (including items and services paid for as medical care) to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (2)) as an employee welfare benefit plan which is a group health plan.

“(2) EMPLOYER.—In the case of a group health plan, the term ‘employer’ also includes the partnership in relation to any partner.

“(3) PARTICIPANTS OF GROUP HEALTH PLANS.—In the case of a group health plan, the term ‘participant’ also includes—

“(A) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

“(B) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual, if such individual is, or may become, eligible to receive a benefit under the plan or such individual’s beneficiaries may be eligible to receive any such benefit.

**“SEC. 2722. ENFORCEMENT.**

“(a) STATE ENFORCEMENT.—

“(1) STATE AUTHORITY.—Subject to section 2723, each State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the small or large group markets meet the requirements of this part with respect to such issuers.

“(2) FAILURE TO IMPLEMENT PROVISIONS.—In the case of a determination by the Secretary that a State has failed to substantially enforce a provision (or provisions) in this part with respect to health insurance issuers in the State, the Secretary shall enforce such provision (or provisions) under subsection (b) insofar as they relate to the issuance, sale, renewal, and offering of health insurance coverage in connection with group health plans in such State.

“(b) SECRETARIAL ENFORCEMENT AUTHORITY.—

“(1) LIMITATION.—The provisions of this subsection shall apply to enforcement of a provision (or provisions) of this part only—

“(A) as provided under subsection (a)(2); and

“(B) with respect to group health plans that are non-Federal governmental plans.

“(2) IMPOSITION OF PENALTIES.—In the cases described in paragraph (1)—

“(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, any non-Federal governmental plan that is a group health plan and any health insurance issuer that fails to meet a provision of this part applicable to such plan or issuer is subject to a civil money penalty under this subsection.

“(B) LIABILITY FOR PENALTY.—In the case of a failure by—

“(i) a health insurance issuer, the issuer is liable for such penalty, or

“(ii) a group health plan that is a non-Federal governmental plan which is—

“(I) sponsored by 2 or more employers, the plan is liable for such penalty, or

“(II) not so sponsored, the employer is liable for such penalty.

“(C) AMOUNT OF PENALTY.—

“(i) IN GENERAL.—The maximum amount of penalty imposed under this paragraph is \$100 for each day for each individual with respect to which such a failure occurs.

“(ii) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this paragraph, the Secretary shall take into account the previous record of compliance of the entity being assessed with the applicable provisions of this part and the gravity of the violation.

“(iii) LIMITATIONS.—

“(I) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No civil money penalty shall be imposed under this paragraph on any failure during any period for which it is established to the satisfaction of the Secretary that none of the entities against whom the penalty would be imposed knew, or

exercising reasonable diligence would have known, that such failure existed.

“(II) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No civil money penalty shall be imposed under this paragraph on any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

“(D) ADMINISTRATIVE REVIEW.—

“(i) OPPORTUNITY FOR HEARING.—The entity assessed shall be afforded an opportunity for hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

“(ii) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subparagraph (E).

“(E) JUDICIAL REVIEW.—

“(i) FILING OF ACTION FOR REVIEW.—Any entity against whom an order imposing a civil money penalty has been entered after an agency hearing under this paragraph may obtain review by the United States district court for any district in which such entity is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary.

“(ii) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

“(iii) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

“(iv) APPEAL.—Any final decision, order, or judgment of the district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

“(F) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

“(i) FAILURE TO PAY ASSESSMENT.—If any entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

“(ii) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

“(G) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this paragraph shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

**“SEC. 2723. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.**

42 USC 300gg-23.

**“(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—**

“(1) IN GENERAL.—Subject to paragraph (2) and except as provided in subsection (b), this part and part C insofar as it relates to this part shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this part.

“(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this part shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

**“(b) SPECIAL RULES IN CASE OF PORTABILITY REQUIREMENTS.—**

“(1) IN GENERAL.—Subject to paragraph (2), the provisions of this part relating to health insurance coverage offered by a health insurance issuer supersede any provision of State law which establishes, implements, or continues in effect a standard or requirement applicable to imposition of a preexisting condition exclusion specifically governed by section 701 which differs from the standards or requirements specified in such section.

“(2) EXCEPTIONS.—Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provision of State law to the extent that such provision—

“(i) substitutes for the reference to ‘6-month period’ in section 2701(a)(1) a reference to any shorter period of time;

“(ii) substitutes for the reference to ‘12 months’ and ‘18 months’ in section 2701(a)(2) a reference to any shorter period of time;

“(iii) substitutes for the references to ‘63’ days in sections 2701(c)(2)(A) and 2701(d)(4)(A) a reference to any greater number of days;

"(iv) substitutes for the reference to '30-day period' in sections 2701(b)(2) and 2701(d)(1) a reference to any greater period;

"(v) prohibits the imposition of any preexisting condition exclusion in cases not described in section 2701(d) or expands the exceptions described in such section;

"(vi) requires special enrollment periods in addition to those required under section 2701(f); or

"(vii) reduces the maximum period permitted in an affiliation period under section 2701(g)(1)(B).

"(c) RULES OF CONSTRUCTION.—Nothing in this part shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

"(d) DEFINITIONS.—For purposes of this section—

"(1) STATE LAW.—The term 'State law' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

"(2) STATE.—The term 'State' includes a State (including the Northern Mariana Islands), any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

#### "PART C—DEFINITIONS; MISCELLANEOUS PROVISIONS

42 USC 300gg-91.

#### "SEC. 2791. DEFINITIONS.

"(a) GROUP HEALTH PLAN.—

"(1) DEFINITION.—The term 'group health plan' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974) to the extent that the plan provides medical care (as defined in paragraph (2)) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

"(2) MEDICAL CARE.—The term 'medical care' means amounts paid for—

"(A) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

"(B) amounts paid for transportation primarily for and essential to medical care referred to in subparagraph (A), and

"(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

"(3) TREATMENT OF CERTAIN PLANS AS GROUP HEALTH PLAN FOR NOTICE PROVISION.—A program under which creditable coverage described in subparagraph (C), (D), (E), or (F) of section 2701(c)(1) is provided shall be treated as a group health plan for purposes of applying section 2701(e).

"(b) DEFINITIONS RELATING TO HEALTH INSURANCE.—

"(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical

care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

"(2) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974). Such term does not include a group health plan.

"(3) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' means—

"(A) a Federally qualified health maintenance organization (as defined in section 1301(a)),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(4) GROUP HEALTH INSURANCE COVERAGE.—The term 'group health insurance coverage' means, in connection with a group health plan, health insurance coverage offered in connection with such plan.

"(5) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

"(c) EXCEPTED BENEFITS.—For purposes of this title, the term 'excepted benefits' means benefits under one or more (or any combination thereof) of the following:

"(1) BENEFITS NOT SUBJECT TO REQUIREMENTS.—

"(A) Coverage only for accident, or disability income insurance, or any combination thereof.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Liability insurance, including general liability insurance and automobile liability insurance.

"(D) Workers' compensation or similar insurance.

"(E) Automobile medical payment insurance.

"(F) Credit-only insurance.

"(G) Coverage for on-site medical clinics.

"(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"(2) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED SEPARATELY.—

"(A) Limited scope dental or vision benefits.

"(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

"(C) Such other similar, limited benefits as are specified in regulations.

"(3) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS INDEPENDENT, NONCOORDINATED BENEFITS.—

"(A) Coverage only for a specified disease or illness.



“(B) Hospital indemnity or other fixed indemnity insurance.

“(4) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS SEPARATE INSURANCE POLICY.—Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan.

“(d) OTHER DEFINITIONS.—

“(1) APPLICABLE STATE AUTHORITY.—The term ‘applicable State authority’ means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved with respect to such issuer.

“(2) BENEFICIARY.—The term ‘beneficiary’ has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974.

“(3) BONA FIDE ASSOCIATION.—The term ‘bona fide association’ means, with respect to health insurance coverage offered in a State, an association which—

“(A) has been actively in existence for at least 5 years;

“(B) has been formed and maintained in good faith for purposes other than obtaining insurance;

“(C) does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

“(D) makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);

“(E) does not make health insurance coverage offered through the association available other than in connection with a member of the association; and

“(F) meets such additional requirements as may be imposed under State law.

“(4) COBRA CONTINUATION PROVISION.—The term ‘COBRA continuation provision’ means any of the following:

“(A) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

“(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, other than section 609 of such Act.

“(C) Title XXII of this Act.

“(5) EMPLOYEE.—The term ‘employee’ has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974.

“(6) EMPLOYER.—The term ‘employer’ has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974, except that such term shall include only employers of two or more employees.

“(7) CHURCH PLAN.—The term ‘church plan’ has the meaning given such term under section 3(33) of the Employee Retirement Income Security Act of 1974.

“(8) GOVERNMENTAL PLAN.—(A) The term ‘governmental plan’ has the meaning given such term under section 3(32) of the Employee Retirement Income Security Act of 1974 and any Federal governmental plan.

“(B) FEDERAL GOVERNMENTAL PLAN.—The term ‘Federal governmental plan’ means a governmental plan established or maintained for its employees by the Government of the United States or by any agency or instrumentality of such Government.

“(C) NON-FEDERAL GOVERNMENTAL PLAN.—The term ‘non-Federal governmental plan’ means a governmental plan that is not a Federal governmental plan.

“(9) HEALTH STATUS-RELATED FACTOR.—The term ‘health status-related factor’ means any of the factors described in section 2702(a)(1).

“(10) NETWORK PLAN.—The term ‘network plan’ means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided, in whole or in part, through a defined set of providers under contract with the issuer.

“(11) PARTICIPANT.—The term ‘participant’ has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974.

“(12) PLACED FOR ADOPTION DEFINED.—The term ‘placement’, or being ‘placed’, for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child’s placement with such person terminates upon the termination of such legal obligation.

“(13) PLAN SPONSOR.—The term ‘plan sponsor’ has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

“(14) STATE.—The term ‘State’ means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

“(e) DEFINITIONS RELATING TO MARKETS AND SMALL EMPLOYERS.—For purposes of this title:

“(1) INDIVIDUAL MARKET.—

“(A) IN GENERAL.—The term ‘individual market’ means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

“(B) TREATMENT OF VERY SMALL GROUPS.—

“(i) IN GENERAL.—Subject to clause (ii), such terms includes coverage offered in connection with a group health plan that has fewer than two participants as current employees on the first day of the plan year.

“(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of a State that elects to regulate the coverage described in such clause as coverage in the small group market.

“(2) LARGE EMPLOYER.—The term ‘large employer’ means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the

preceding calendar year and who employs at least 2 employees on the first day of the plan year.

“(3) LARGE GROUP MARKET.—The term ‘large group market’ means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a large employer.

“(4) SMALL EMPLOYER.—The term ‘small employer’ means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

“(5) SMALL GROUP MARKET.—The term ‘small group market’ means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a small employer.

“(6) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

“(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

“(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small or large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

“(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

42 USC 300gg-92.

#### “SEC. 2792. REGULATIONS.

“The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this title. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this title.”

(b) APPLICATION OF RULES BY CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.—Section 1301 of such Act (42 U.S.C. 300e) is amended by adding at the end the following new subsection:

“(d) An organization that offers health benefits coverage shall not be considered as failing to meet the requirements of this section notwithstanding that it provides, with respect to coverage offered in connection with a group health plan in the small or large group market (as defined in section 2791(e)), an affiliation period consistent with the provisions of section 2701(g).”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, part A of title XXVII of the Public Health Service Act (as added by subsection (a)) shall apply with respect to group health plans, and health insurance coverage offered in connec-

42 USC 300gg note.

tion with group health plans, for plan years beginning after June 30, 1997.

(2) DETERMINATION OF CREDITABLE COVERAGE.—

(A) PERIOD OF COVERAGE.—

(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under part A of title XXVII of the Public Health Service Act (as added by this section) in determining creditable coverage.

(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of Health and Human Services, consistent with section 104, shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

(B) CERTIFICATIONS, ETC.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 2701 of the Public Health Service Act (as added by this section) shall apply to events occurring after June 30, 1996.

(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification required to be provided under such subsection before June 1, 1997.

(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2)(B), in the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, part A of title XXVII of the Public Health Service Act (other than section 2701(e) thereof) shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of such part shall not be treated as a termination of such collective bargaining agreement.

(4) **TIMELY REGULATIONS.**—The Secretary of Health and Human Services, consistent with section 104, shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section and section 111.

(5) **LIMITATION ON ACTIONS.**—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.

(d) **MISCELLANEOUS CORRECTION.**—Section 2208(1) of the Public Health Service Act (42 U.S.C. 300bb-8(1)) is amended by striking “section 162(i)(2)” and inserting “5000(b)”.

#### **SEC. 103. REFERENCE TO IMPLEMENTATION THROUGH THE INTERNAL REVENUE CODE OF 1986.**

For provisions amending the Internal Revenue Code of 1986 to provide for application and enforcement of rules for group health plans similar to those provided under the amendments made by section 101(a), see section 401.

#### **SEC. 104. ASSURING COORDINATION.**

The Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this subtitle (and the amendments made by this subtitle and section 401) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

### **Subtitle B—Individual Market Rules**

#### **SEC. 111. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.**

(a) **IN GENERAL.**—Title XXVII of the Public Health Service Act, as added by section 102(a) of this Act, is amended by inserting after part A the following new part:

42 USC 300gg-92 note.

## "PART B—INDIVIDUAL MARKET RULES

**"SEC. 2741. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH PRIOR GROUP COVERAGE.**

42 USC 300gg-41.

**"(a) GUARANTEED AVAILABILITY.—**

"(1) IN GENERAL.—Subject to the succeeding subsections of this section and section 2744, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) decline to offer such coverage to, or deny enrollment of, such individual; or

"(B) impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) ELIGIBLE INDIVIDUAL DEFINED.—In this part, the term 'eligible individual' means an individual—

"(1)(A) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the periods of creditable coverage (as defined in section 2701(c)) is 18 or more months and (B) whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage;

"(3) with respect to whom the most recent coverage within the coverage period described in paragraph (1)(A) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud);

"(4) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

"(5) who, if the individual elected such continuation coverage, has exhausted such continuation coverage under such provision or program.

**"(c) ALTERNATIVE COVERAGE PERMITTED WHERE NO STATE MECHANISM.—**

"(1) IN GENERAL.—In the case of health insurance coverage offered in the individual market in a State in which the State is not implementing an acceptable alternative mechanism under section 2744, the health insurance issuer may elect to limit the coverage offered under subsection (a) so long as it offers at least two different policy forms of health insurance coverage both of which—

"(A) are designed for, made generally available to, and actively marketed to, and enroll both eligible and other individuals by the issuer; and

"(B) meet the requirement of paragraph (2) or (3), as elected by the issuer.

For purposes of this subsection, policy forms which have different cost-sharing arrangements or different riders shall be considered to be different policy forms.

"(2) CHOICE OF MOST POPULAR POLICY FORMS.—The requirement of this paragraph is met, for health insurance coverage policy forms offered by an issuer in the individual market, if the issuer offers the policy forms for individual health insurance coverage with the largest, and next to largest, premium volume of all such policy forms offered by the issuer in the State or applicable marketing or service area (as may be prescribed in regulation) by the issuer in the individual market in the period involved.

"(3) CHOICE OF 2 POLICY FORMS WITH REPRESENTATIVE COVERAGE.—

"(A) IN GENERAL.—The requirement of this paragraph is met, for health insurance coverage policy forms offered by an issuer in the individual market, if the issuer offers a lower-level coverage policy form (as defined in subparagraph (B)) and a higher-level coverage policy form (as defined in subparagraph (C)) each of which includes benefits substantially similar to other individual health insurance coverage offered by the issuer in that State and each of which is covered under a method described in section 2744(c)(3)(A) (relating to risk adjustment, risk spreading, or financial subsidization).

"(B) LOWER-LEVEL OF COVERAGE DESCRIBED.—A policy form is described in this subparagraph if the actuarial value of the benefits under the coverage is at least 85 percent but not greater than 100 percent of a weighted average (described in subparagraph (D)).

"(C) HIGHER-LEVEL OF COVERAGE DESCRIBED.—A policy form is described in this subparagraph if—

"(i) the actuarial value of the benefits under the coverage is at least 15 percent greater than the actuarial value of the coverage described in subparagraph (B) offered by the issuer in the area involved; and

"(ii) the actuarial value of the benefits under the coverage is at least 100 percent but not greater than 120 percent of a weighted average (described in subparagraph (D)).

"(D) WEIGHTED AVERAGE.—For purposes of this paragraph, the weighted average described in this subparagraph is the average actuarial value of the benefits provided by all the health insurance coverage issued (as elected by the issuer) either by that issuer or by all issuers in the State in the individual market during the previous year (not including coverage issued under this section), weighted by enrollment for the different coverage.

"(4) ELECTION.—The issuer elections under this subsection shall apply uniformly to all eligible individuals in the State for that issuer. Such an election shall be effective for policies offered during a period of not shorter than 2 years.

"(5) ASSUMPTIONS.—For purposes of paragraph (3), the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

"(d) SPECIAL RULES FOR NETWORK PLANS.—

"(1) IN GENERAL.—In the case of a health insurance issuer that offers health insurance coverage in the individual market through a network plan, the issuer may—

"(A) limit the individuals who may be enrolled under such coverage to those who live, reside, or work within the service area for such network plan; and

"(B) within the service area of such plan, deny such coverage to such individuals if the issuer has demonstrated, if required, to the applicable State authority that—

"(i) it will not have the capacity to deliver services adequately to additional individual enrollees because of its obligations to existing group contract holders and enrollees and individual enrollees, and

"(ii) it is applying this paragraph uniformly to individuals without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible individuals.

"(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An issuer, upon denying health insurance coverage in any service area in accordance with paragraph (1)(B), may not offer coverage in the individual market within such service area for a period of 180 days after such coverage is denied.

"(e) APPLICATION OF FINANCIAL CAPACITY LIMITS.—

"(1) IN GENERAL.—A health insurance issuer may deny health insurance coverage in the individual market to an eligible individual if the issuer has demonstrated, if required, to the applicable State authority that—

"(A) it does not have the financial reserves necessary to underwrite additional coverage; and

"(B) it is applying this paragraph uniformly to all individuals in the individual market in the State consistent with applicable State law and without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible individuals.

"(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An issuer upon denying individual health insurance coverage in any service area in accordance with paragraph (1) may not offer such coverage in the individual market within such service area for a period of 180 days after the date such coverage is denied or until the issuer has demonstrated, if required under applicable State law, to the applicable State authority that the issuer has sufficient financial reserves to underwrite additional coverage, whichever is later. A State may provide for the application of this paragraph on a service-area-specific basis.

"(e) MARKET REQUIREMENTS.—

"(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health insurance issuer offering health insurance coverage only in connection with group health plans or through one or more bona fide associations, or both, offer such health insurance coverage in the individual market.



"(2) CONVERSION POLICIES.—A health insurance issuer offering health insurance coverage in connection with group health plans under this title shall not be deemed to be a health insurance issuer offering individual health insurance coverage solely because such issuer offers a conversion policy.

"(f) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to restrict the amount of the premium rates that an issuer may charge an individual for health insurance coverage provided in the individual market under applicable State law; or

"(2) to prevent a health insurance issuer offering health insurance coverage in the individual market from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

42 USC 300gg-42.

**"SEC. 2742. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE.**

"(a) IN GENERAL.—Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force such coverage at the option of the individual.

"(b) GENERAL EXCEPTIONS.—A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one or more of the following:

"(1) NONPAYMENT OF PREMIUMS.—The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

"(2) FRAUD.—The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

"(3) TERMINATION OF PLAN.—The issuer is ceasing to offer coverage in the individual market in accordance with subsection (c) and applicable State law.

"(4) MOVEMENT OUTSIDE SERVICE AREA.—In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

"(5) ASSOCIATION MEMBERSHIP CEASES.—In the case of health insurance coverage that is made available in the individual market only through one or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

"(c) REQUIREMENTS FOR UNIFORM TERMINATION OF COVERAGE.—

"(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual

market, coverage of such type may be discontinued by the issuer only if—

“(A) the issuer provides notice to each covered individual provided coverage of this type in such market of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

“(B) the issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in such market; and

“(C) in exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph (B), the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage.

“(2) DISCONTINUANCE OF ALL COVERAGE.—

“(A) IN GENERAL.—Subject to subparagraph (C), in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in a State, health insurance coverage may be discontinued by the issuer only if—

“(i) the issuer provides notice to the applicable State authority and to each individual of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

“(ii) all health insurance issued or delivered for issuance in the State in such market are discontinued and coverage under such health insurance coverage in such market is not renewed.

“(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

“(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as such modification is consistent with State law and effective on a uniform basis among all individuals with that policy form.

“(e) APPLICATION TO COVERAGE OFFERED ONLY THROUGH ASSOCIATIONS.—In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one or more associations, a reference to an ‘individual’ is deemed to include a reference to such an association (of which the individual is a member).

#### “SEC. 2743. CERTIFICATION OF COVERAGE.

“The provisions of section 2701(e) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

42 USC 300gg-

43.

42 USC 300gg-44.

**"SEC. 2744. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.****"(a) WAIVER OF REQUIREMENTS WHERE IMPLEMENTATION OF ACCEPTABLE ALTERNATIVE MECHANISM.—**

"(1) IN GENERAL.—The requirements of section 2741 shall not apply with respect to health insurance coverage offered in the individual market in the State so long as a State is found to be implementing, in accordance with this section and consistent with section 2746(b), an alternative mechanism (in this section referred to as an 'acceptable alternative mechanism')—

"(A) under which all eligible individuals are provided a choice of health insurance coverage;

"(B) under which such coverage does not impose any preexisting condition exclusion with respect to such coverage;

"(C) under which such choice of coverage includes at least one policy form of coverage that is comparable to comprehensive health insurance coverage offered in the individual market in such State or that is comparable to a standard option of coverage available under the group or individual health insurance laws of such State; and

"(D) in a State which is implementing—

"(i) a model act described in subsection (c)(1),

"(ii) a qualified high risk pool described in subsection (c)(2), or

"(iii) a mechanism described in subsection (c)(3).

"(2) PERMISSIBLE FORMS OF MECHANISMS.—A private or public individual health insurance mechanism (such as a health insurance coverage pool or programs, mandatory group conversion policies, guaranteed issue of one or more plans of individual health insurance coverage, or open enrollment by one or more health insurance issuers), or combination of such mechanisms, that is designed to provide access to health benefits for individuals in the individual market in the State in accordance with this section may constitute an acceptable alternative mechanism.

**"(b) APPLICATION OF ACCEPTABLE ALTERNATIVE MECHANISMS.—****"(1) PRESUMPTION.—**

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a State is presumed to be implementing an acceptable alternative mechanism in accordance with this section as of July 1, 1997, if, by not later than April 1, 1997, the chief executive officer of a State—

"(i) notifies the Secretary that the State has enacted or intends to enact (by not later than January 1, 1998, or July 1, 1998, in the case of a State described in subparagraph (B)(ii)) any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of January 1, 1998, (or, in the case of a State described in subparagraph (B)(ii), July 1, 1998); and

"(ii) provides the Secretary with such information as the Secretary may require to review the mechanism and its implementation (or proposed implementation) under this subsection.

"(B) DELAY PERMITTED FOR CERTAIN STATES.—

“(i) EFFECT OF DELAY.—In the case of a State described in clause (ii) that provides notice under subparagraph (A)(i), for the presumption to continue on and after July 1, 1998, the chief executive officer of the State by April 1, 1998—

“(I) must notify the Secretary that the State has enacted any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of July 1, 1998; and

“(II) must provide the Secretary with such information as the Secretary may require to review the mechanism and its implementation (or proposed implementation) under this subsection.

“(ii) STATES DESCRIBED.—A State described in this clause is a State that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act.

“(C) CONTINUED APPLICATION.—In order for a mechanism to continue to be presumed to be an acceptable alternative mechanism, the State shall provide the Secretary every 3 years with information described in subparagraph (A)(ii) or (B)(i)(II) (as the case may be).

“(2) NOTICE.—If the Secretary finds, after review of information provided under paragraph (1) and in consultation with the chief executive officer of the State and the insurance commissioner or chief insurance regulatory official of the State, that such a mechanism is not an acceptable alternative mechanism or is not (or no longer) being implemented, the Secretary—

“(A) shall notify the State of—

“(i) such preliminary determination, and

“(ii) the consequences under paragraph (3) of a failure to implement such a mechanism; and

“(B) shall permit the State a reasonable opportunity in which to modify the mechanism (or to adopt another mechanism) in a manner so that may be an acceptable alternative mechanism or to provide for implementation of such a mechanism.

“(3) FINAL DETERMINATION.—If, after providing notice and opportunity under paragraph (2), the Secretary finds that the mechanism is not an acceptable alternative mechanism or the State is not implementing such a mechanism, the Secretary shall notify the State that the State is no longer considered to be implementing an acceptable alternative mechanism and that the requirements of section 2741 shall apply to health insurance coverage offered in the individual market in the State, effective as of a date specified in the notice.

“(4) LIMITATION ON SECRETARIAL AUTHORITY.—The Secretary shall not make a determination under paragraph (2) or (3) on any basis other than the basis that a mechanism is not an acceptable alternative mechanism or is not being implemented.

“(5) FUTURE ADOPTION OF MECHANISMS.—If a State, after January 1, 1997, submits the notice and information described in paragraph (1), unless the Secretary makes a finding described in paragraph (3) within the 90-day period beginning on the date of submission of the notice and information, the

mechanism shall be considered to be an acceptable alternative mechanism for purposes of this section, effective 90 days after the end of such period, subject to the second sentence of paragraph (1).

**“(c) PROVISION RELATED TO RISK.—**

**“(1) ADOPTION OF NAIC MODELS.—**The model act referred to in subsection (a)(1)(D)(i) is the Small Employer and Individual Health Insurance Availability Model Act (adopted by the National Association of Insurance Commissioners on June 3, 1996) insofar as it applies to individual health insurance coverage or the Individual Health Insurance Portability Model Act (also adopted by such Association on such date).

**“(2) QUALIFIED HIGH RISK POOL.—**For purposes of subsection (a)(1)(D)(ii), a ‘qualified high risk pool’ described in this paragraph is a high risk pool that—

“(A) provides to all eligible individuals health insurance coverage (or comparable coverage) that does not impose any preexisting condition exclusion with respect to such coverage for all eligible individuals, and

“(B) provides for premium rates and covered benefits for such coverage consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals Act (as in effect as of the date of the enactment of this title).

**“(3) OTHER MECHANISMS.—**For purposes of subsection (a)(1)(D)(iii), a mechanism described in this paragraph—

“(A) provides for risk adjustment, risk spreading, or a risk spreading mechanism (among issuers or policies of an issuer) or otherwise provides for some financial subsidization for eligible individuals, including through assistance to participating issuers; or

“(B) is a mechanism under which each eligible individual is provided a choice of all individual health insurance coverage otherwise available.

42 USC  
300gg-61.

**“SEC. 2761. ENFORCEMENT.**

**“(a) STATE ENFORCEMENT.—**

**“(1) STATE AUTHORITY.—**Subject to section 2746, each State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the individual market meet the requirements established under this part with respect to such issuers.

**“(2) FAILURE TO IMPLEMENT REQUIREMENTS.—**In the case of a State that fails to substantially enforce the requirements set forth in this part with respect to health insurance issuers in the State, the Secretary shall enforce the requirements of this part under subsection (b) insofar as they relate to the issuance, sale, renewal, and offering of health insurance coverage in the individual market in such State.

**“(b) SECRETARIAL ENFORCEMENT AUTHORITY.—**The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2) in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.

**“SEC. 2762. PREEMPTION.**42 USC  
300gg-62.

“(a) IN GENERAL.—Subject to subsection (b), nothing in this part (or part C insofar as it applies to this part) shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements unless such standards and requirements prevent the application of a requirement of this part.

“(b) RULES OF CONSTRUCTION.—Nothing in this part (or part C insofar as it applies to this part) shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

**“SEC. 2763. GENERAL EXCEPTIONS.**42 USC  
300gg-63.

“(a) EXCEPTION FOR CERTAIN BENEFITS.—The requirements of this part shall not apply to any health insurance coverage in relation to its provision of excepted benefits described in section 2791(c)(1).

“(b) EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.—The requirements of this part shall not apply to any health insurance coverage in relation to its provision of excepted benefits described in paragraph (2), (3), or (4) of section 2791(c) if the benefits are provided under a separate policy, certificate, or contract of insurance.”

(b) EFFECTIVE DATE.—

42 USC  
300gg-41 note.

(1) IN GENERAL.—Except as provided in this subsection, part B of title XXVII of the Public Health Service Act (as inserted by subsection (a)) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs.

(2) APPLICATION OF CERTIFICATION RULES.—The provisions of section 102(d)(2) of this Act shall apply to section 2743 of the Public Health Service Act in the same manner as it applies to section 2701(e) of such Act.

## **Subtitle C—General and Miscellaneous Provisions**

**SEC. 191. HEALTH COVERAGE AVAILABILITY STUDIES.**42 USC 300gg  
note.

(a) STUDIES.—

(1) STUDY ON EFFECTIVENESS OF REFORMS.—The Secretary of Health and Human Services shall provide for a study on the effectiveness of the provisions of this title and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a non-group basis.

(2) STUDY ON ACCESS AND CHOICE.—The Secretary also shall provide for a study on—

(A) the extent to which patients have direct access to, and choice of, health care providers, including specialty providers, within a network plan, as well as the opportunity to utilize providers outside of the network plan, under the various types of coverage offered under the provisions of this title; and

(B) the cost and cost-effectiveness to health insurance issuers of providing access to out-of-network providers, and the potential impact of providing such access on the cost

and quality of health insurance coverage offered under provisions of this title.

(3) **CONSULTATION.**—The studies under this subsection shall be conducted in consultation with the Secretary of Labor, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits.

(b) **REPORTS.**—Not later than January 1, 2000, the Secretary shall submit to the appropriate committees of Congress a report on each of the studies under subsection (a).

**SEC. 192. REPORT ON MEDICARE REIMBURSEMENT OF TELEMEDICINE.**

The Health Care Financing Administration shall complete its ongoing study of Medicare reimbursement of all telemedicine services and submit a report to Congress on Medicare reimbursement of telemedicine services by not later than March 1, 1997. The report shall—

(1) utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks;

(2) include an analysis of the cost of services provided via telemedicine; and

(3) include a proposal for Medicare reimbursement of such services.

**SEC. 193. ALLOWING FEDERALLY-QUALIFIED HMOS TO OFFER HIGH DEDUCTIBLE PLANS.**

Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

“(6) A health maintenance organization that otherwise meets the requirements of this title may offer a high-deductible health plan (as defined in section 220(c)(2) of the Internal Revenue Code of 1986).”.

**SEC. 194. VOLUNTEER SERVICES PROVIDED BY HEALTH PROFESSIONALS AT FREE CLINICS.**

Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding at the end the following subsection:

“(o)(1) For purposes of this section, a free clinic health professional shall in providing a qualifying health service to an individual be deemed to be an employee of the Public Health Service for a calendar year that begins during a fiscal year for which a transfer was made under paragraph (6)(D). The preceding sentence is subject to the provisions of this subsection.

“(2) In providing a health service to an individual, a health care practitioner shall for purposes of this subsection be considered to be a free clinic health professional if the following conditions are met:

“(A) The service is provided to the individual at a free clinic, or through offsite programs or events carried out by the free clinic.

“(B) The free clinic is sponsoring the health care practitioner pursuant to paragraph (5)(C).

“(C) The service is a qualifying health service (as defined in paragraph (4)).

“(D) Neither the health care practitioner nor the free clinic receives any compensation for the service from the individual

or from any third-party payor (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program). With respect to compliance with such condition:

“(i) The health care practitioner may receive repayment from the free clinic for reasonable expenses incurred by the health care practitioner in the provision of the service to the individual.

“(ii) The free clinic may accept voluntary donations for the provision of the service by the health care practitioner to the individual.

“(E) Before the service is provided, the health care practitioner or the free clinic provides written notice to the individual of the extent to which the legal liability of the health care practitioner is limited pursuant to this subsection (or in the case of an emergency, the written notice is provided to the individual as soon after the emergency as is practicable). If the individual is a minor or is otherwise legally incompetent, the condition under this subparagraph is that the written notice be provided to a legal guardian or other person with legal responsibility for the care of the individual.

“(F) At the time the service is provided, the health care practitioner is licensed or certified in accordance with applicable law regarding the provision of the service.

“(3)(A) For purposes of this subsection, the term ‘free clinic’ means a health care facility operated by a nonprofit private entity meeting the following requirements:

“(i) The entity does not, in providing health services through the facility, accept reimbursement from any third-party payor (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).

“(ii) The entity, in providing health services through the facility, either does not impose charges on the individuals to whom the services are provided, or imposes a charge according to the ability of the individual involved to pay the charge.

“(iii) The entity is licensed or certified in accordance with applicable law regarding the provision of health services.

“(B) With respect to compliance with the conditions under subparagraph (A), the entity involved may accept voluntary donations for the provision of services.

“(4) For purposes of this subsection, the term ‘qualifying health service’ means any medical assistance required or authorized to be provided in the program under title XIX of the Social Security Act, without regard to whether the medical assistance is included in the plan submitted under such program by the State in which the health care practitioner involved provides the medical assistance. References in the preceding sentence to such program shall as applicable be considered to be references to any successor to such program.

“(5) Subsection (g) (other than paragraphs (3) through (5)) and subsections (h), (i), and (l) apply to a health care practitioner for purposes of this subsection to the same extent and in the same manner as such subsections apply to an officer, governing board member, employee, or contractor of an entity described in subsection (g)(4), subject to paragraph (6) and subject to the following:



“(A) The first sentence of paragraph (1) applies in lieu of the first sentence of subsection (g)(1)(A).

“(B) This subsection may not be construed as deeming any free clinic to be an employee of the Public Health Service for purposes of this section.

“(C) With respect to a free clinic, a health care practitioner is not a free clinic health professional unless the free clinic sponsors the health care practitioner. For purposes of this subsection, the free clinic shall be considered to be sponsoring the health care practitioner if—

“(i) with respect to the health care practitioner, the free clinic submits to the Secretary an application meeting the requirements of subsection (g)(1)(D); and

“(ii) the Secretary, pursuant to subsection (g)(1)(E), determines that the health care practitioner is deemed to be an employee of the Public Health Service.

“(D) In the case of a health care practitioner who is determined by the Secretary pursuant to subsection (g)(1)(E) to be a free clinic health professional, this subsection applies to the health care practitioner (with respect to the free clinic sponsoring the health care practitioner pursuant to subparagraph (C)) for any cause of action arising from an act or omission of the health care practitioner occurring on or after the date on which the Secretary makes such determination.

“(E) Subsection (g)(1)(F) applies to a health care practitioner for purposes of this subsection only to the extent that, in providing health services to an individual, each of the conditions specified in paragraph (2) is met.

“(6)(A) For purposes of making payments for judgments against the United States (together with related fees and expenses of witnesses) pursuant to this section arising from the acts or omissions of free clinic health professionals, there is authorized to be appropriated \$10,000,000 for each fiscal year.

“(B) The Secretary shall establish a fund for purposes of this subsection. Each fiscal year amounts appropriated under subparagraph (A) shall be deposited in such fund.

“(C) Not later than May 1 of each fiscal year, the Attorney General, in consultation with the Secretary, shall submit to the Congress a report providing an estimate of the amount of claims (together with related fees and expenses of witnesses) that, by reason of the acts or omissions of free clinic health professionals, will be paid pursuant to this section during the calendar year that begins in the following fiscal year. Subsection (k)(1)(B) applies to the estimate under the preceding sentence regarding free clinic health professionals to the same extent and in the same manner as such subsection applies to the estimate under such subsection regarding officers, governing board members, employees, and contractors of entities described in subsection (g)(4).

“(D) Not later than December 31 of each fiscal year, the Secretary shall transfer from the fund under subparagraph (B) to the appropriate accounts in the Treasury an amount equal to the estimate made under subparagraph (C) for the calendar year beginning in such fiscal year, subject to the extent of amounts in the fund.

“(7)(A) This subsection takes effect on the date of the enactment of the first appropriations Act that makes an appropriation under paragraph (6)(A), except as provided in subparagraph (B)(i).

Reports.

Effective date.

“(B)(i) Effective on the date of the enactment of the Health Insurance Portability and Accountability Act of 1996—

“(I) the Secretary may issue regulations for carrying out this subsection, and the Secretary may accept and consider applications submitted pursuant to paragraph (5)(C); and

“(II) reports under paragraph (6)(C) may be submitted to the Congress.

“(ii) For the first fiscal year for which an appropriation is made under subparagraph (A) of paragraph (6), if an estimate under subparagraph (C) of such paragraph has not been made for the calendar year beginning in such fiscal year, the transfer under subparagraph (D) of such paragraph shall be made notwithstanding the lack of the estimate, and the transfer shall be made in an amount equal to the amount of such appropriation.”.

#### **SEC. 195. FINDINGS; SEVERABILITY.**

42 USC 300gg  
note.

(a) **FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY.**—Congress finds the following in relation to the provisions of this title:

(1) Provisions in group health plans and health insurance coverage that impose certain preexisting condition exclusions impact the ability of employees to seek employment in interstate commerce, thereby impeding such commerce.

(2) Health insurance coverage is commercial in nature and is in and affects interstate commerce.

(3) It is a necessary and proper exercise of Congressional authority to impose requirements under this title on group health plans and health insurance coverage (including coverage offered to individuals previously covered under group health plans) in order to promote commerce among the States.

(4) Congress, however, intends to defer to States, to the maximum extent practicable, in carrying out such requirements with respect to insurers and health maintenance organizations that are subject to State regulation, consistent with the provisions of the Employee Retirement Income Security Act of 1974.

(b) **SEVERABILITY.**—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

## **TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION**

#### **SEC. 200. REFERENCES IN TITLE.**

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

## Subtitle A—Fraud and Abuse Control Program

### SEC. 201. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

#### “FRAUD AND ABUSE CONTROL PROGRAM

42 USC 1320a-7c.

#### “SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

“(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

“(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

“(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

“(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

“(D) to provide for the modification and establishment of safe harbors and to issue advisory opinions and special fraud alerts pursuant to section 1128D, and

“(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

“(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

#### “(3) GUIDELINES.—

“(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

#### “(B) INFORMATION GUIDELINES.—

“(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

“(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

“(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relat-

ing to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

“(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

“(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

“(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

“(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

“(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

“(c) HEALTH PLAN DEFINED.—For purposes of this section, the term ‘health plan’ means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

“(1) a policy of health insurance;

“(2) a contract of a service benefit organization; and

“(3) a membership agreement with a health maintenance organization or other prepaid health plan.”.

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

“(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

“(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the ‘Health Care Fraud and Abuse Control Account’ (in this subsection referred to as the ‘Account’).

“(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

“(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

“(i) such gifts and bequests as may be made as provided in subparagraph (B);

“(ii) such amounts as may be deposited in the Trust Fund as provided in sections 242(b) and 249(c) of the Health Insurance Portability and Accountability Act of 1996, and title XI; and

“(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

“(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

“(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

“(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

“(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

“(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

“(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

“(D) APPLICATION.—Nothing in subparagraph (C)(iii) shall be construed to limit the availability of recoveries and forfeitures obtained under title I of the Employee Retirement Income Security Act of 1974 for the purpose of providing equitable or remedial relief for employee welfare benefit plans, and for participants and beneficiaries under such plans, as authorized under such title.

“(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

“(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

“(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

“(I) for fiscal year 1997, \$104,000,000,

“(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

“(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

“(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the Medicare and medicaid programs—

“(I) for fiscal year 1997, not less than \$60,000,000 and not more than \$70,000,000;

“(II) for fiscal year 1998, not less than \$80,000,000 and not more than \$90,000,000;

“(III) for fiscal year 1999, not less than \$90,000,000 and not more than \$100,000,000;

“(IV) for fiscal year 2000, not less than \$110,000,000 and not more than \$120,000,000;

“(V) for fiscal year 2001, not less than \$120,000,000 and not more than \$130,000,000;

“(VI) for fiscal year 2002, not less than \$140,000,000 and not more than \$150,000,000; and

“(VII) for each fiscal year after fiscal year 2002, not less than \$150,000,000 and not more than \$160,000,000.

“(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C), to be available without further appropriation—

“(i) for fiscal year 1997, \$47,000,000;

“(ii) for fiscal year 1998, \$56,000,000;

“(iii) for fiscal year 1999, \$66,000,000;

“(iv) for fiscal year 2000, \$76,000,000;

“(v) for fiscal year 2001, \$88,000,000;

“(vi) for fiscal year 2002, \$101,000,000; and

“(vii) for each fiscal year after fiscal year 2002, \$114,000,000.

“(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

“(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

“(ii) investigations;

“(iii) financial and performance audits of health care programs and operations;

“(iv) inspections and other evaluations; and

“(v) provider and consumer education regarding compliance with the provisions of title XI.

“(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

“(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

“(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

“(i) For fiscal year 1997, such amount shall be not less than \$430,000,000 and not more than \$440,000,000.

“(ii) For fiscal year 1998, such amount shall be not less than \$490,000,000 and not more than \$500,000,000.

“(iii) For fiscal year 1999, such amount shall be not less than \$550,000,000 and not more than \$560,000,000.

“(iv) For fiscal year 2000, such amount shall be not less than \$620,000,000 and not more than \$630,000,000.

“(v) For fiscal year 2001, such amount shall be not less than \$670,000,000 and not more than \$680,000,000.

“(vi) For fiscal year 2002, such amount shall be not less than \$690,000,000 and not more than \$700,000,000.

“(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than \$710,000,000 and not more than \$720,000,000.

“(5) ANNUAL REPORT.—Not later than January 1, the Secretary and the Attorney General shall submit jointly a report to Congress which identifies—

“(A) the amounts appropriated to the Trust Fund for the previous fiscal year under paragraph (2)(A) and the source of such amounts; and

“(B) the amounts appropriated from the Trust Fund for such year under paragraph (3) and the justification for the expenditure of such amounts.

“(6) GAO REPORT.—Not later than January 1 of 2000, 2002, and 2004, the Comptroller General of the United States shall submit a report to Congress which—

“(A) identifies—

“(i) the amounts appropriated to the Trust Fund for the previous two fiscal years under paragraph (2)(A) and the source of such amounts; and

“(ii) the amounts appropriated from the Trust Fund for such fiscal years under paragraph (3) and the justification for the expenditure of such amounts;

“(B) identifies any expenditures from the Trust Fund with respect to activities not involving the Medicare program under title XVIII;

“(C) identifies any savings to the Trust Fund, and any other savings, resulting from expenditures from the Trust Fund; and

“(D) analyzes such other aspects of the operation of the Trust Fund as the Comptroller General of the United States considers appropriate.”.

#### SEC. 202. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

##### “MEDICARE INTEGRITY PROGRAM

“SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the ‘Program’) under which the Secretary shall promote the integrity of the Medicare program by entering into contracts in

accordance with this section with eligible entities to carry out the activities described in subsection (b).

“(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

“(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

“(2) Audit of cost reports.

“(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

“(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

“(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

“(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

“(1) the entity has demonstrated capability to carry out such activities;

“(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

“(3) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement; and

“(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

“(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

Regulations.

“(1) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

“(2) Competitive procedures to be used—

“(A) when entering into new contracts under this section;



“(B) when entering into contracts that may result in the elimination of responsibilities of an individual fiscal intermediary or carrier under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

“(C) at any other time considered appropriate by the Secretary,

except that the Secretary may continue to contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

“(3) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract. The Secretary may enter into such contracts without regard to final rules having been promulgated.

Regulations.

“(e) **LIMITATION ON CONTRACTOR LIABILITY.**—The Secretary shall by regulation provide for the limitation of a contractor’s liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.”.

(b) **ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.**—

(1) **RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.**—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

“(1) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.”.

(2) **RESPONSIBILITIES OF CARRIERS UNDER PART B.**—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

“(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).”.

42 USC 1395b-5.

#### **SEC. 203. BENEFICIARY INCENTIVE PROGRAMS.**

(a) **CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall provide an explanation of benefits under the Medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging in or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, 1128A, or 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the Medicare program under title XVIII of such act for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least \$100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the Medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

**SEC. 204. APPLICATION OF CERTAIN HEALTH ANTIFRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.**

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a-7b) is amended as follows:

(1) In the heading, by striking “MEDICARE OR STATE HEALTH CARE PROGRAMS” and inserting “FEDERAL HEALTH CARE PROGRAMS”.

(2) In subsection (a)(1), by striking “a program under title XVIII or a State health care program (as defined in section 1128(h))” and inserting “a Federal health care program (as defined in subsection (f))”.

(3) In subsection (a)(5), by striking “a program under title XVIII or a State health care program” and inserting “a Federal health care program”.

(4) In the second sentence of subsection (a)—

(A) by striking “a State plan approved under title XIX” and inserting “a Federal health care program”, and  
 (B) by striking “the State may at its option (notwithstanding any other provision of that title or of such plan)” and inserting “the administrator of such program may at its option (notwithstanding any other provision of such program)”.

(5) In subsection (b), by striking “title XVIII or a State health care program” each place it appears and inserting “a Federal health care program”.

(6) In subsection (c), by inserting “(as defined in section 1128(h))” after “a State health care program”.

(7) By adding at the end the following new subsection:  
 “(f) For purposes of this section, the term ‘Federal health care program’ means—

“(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

“(2) any State health care program, as defined in section 1128(h).”.

42 USC 1320a-  
7b note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

#### SEC. 205. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 201, is amended by inserting after section 1128C the following new section:

##### “GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

42 USC 1320a-  
7d.

“SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

“(1) IN GENERAL.—

Federal Register,  
publication.

“(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

“(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

“(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

“(iii) advisory opinions to be issued pursuant to subsection (b); and

“(iv) special fraud alerts to be issued pursuant to subsection (c).

Federal Register,  
publication.

“(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney

General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

“(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the ‘Inspector General’) shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

“(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

“(A) An increase or decrease in access to health care services.

“(B) An increase or decrease in the quality of health care services.

“(C) An increase or decrease in patient freedom of choice among health care providers.

“(D) An increase or decrease in competition among health care providers.

“(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

“(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

“(G) An increase or decrease in the potential overutilization of health care services.

“(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

“(i) whether to order a health care item or service; or

“(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

“(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

“(b) ADVISORY OPINIONS.—

“(1) ISSUANCE OF ADVISORY OPINIONS.—The Secretary, in consultation with the Attorney General, shall issue written advisory opinions as provided in this subsection.

“(2) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

“(A) What constitutes prohibited remuneration within the meaning of section 1128B(b).

“(B) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

“(C) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

“(D) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX within the meaning of section 1128B(b).

“(E) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

“(3) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

“(A) Whether the fair market value shall be, or was paid or received for any goods, services or property.

“(B) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

“(4) EFFECT OF ADVISORY OPINIONS.—

“(A) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

“(B) FAILURE TO SEEK OPINION.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

“(5) REGULATIONS.—

“(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

“(i) the procedure to be followed by a party applying for an advisory opinion;

“(ii) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

“(iii) the interval in which the Secretary shall respond;

“(iv) the reasonable fee to be charged to the party requesting an advisory opinion; and

“(v) the manner in which advisory opinions will be made available to the public.

“(B) SPECIFIC CONTENTS.—Under the regulations promulgated pursuant to subparagraph (A)—

“(i) the Secretary shall be required to issue to a party requesting an advisory opinion by not later than 60 days after the request is received; and

“(ii) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.

“(6) APPLICATION OF SUBSECTION.—This subsection shall apply to requests for advisory opinions made on or after the date which is 6 months after the date of enactment of this section and before the date which is 4 years after such date of enactment.

**“(c) SPECIAL FRAUD ALERTS.—**

**“(1) IN GENERAL.—**

**“(A) REQUEST FOR SPECIAL FRAUD ALERTS.—**Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the Medicare program under title XVIII or a State health care program, as defined in section 1128(h) (in this subsection referred to as a ‘special fraud alert’).

**“(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—**Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

**“(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—**In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

**“(A)** whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

**“(B)** the volume and frequency of the conduct that would be identified in the special fraud alert.”.

## **Subtitle B—Revisions to Current Sanctions for Fraud and Abuse**

### **SEC. 211. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.**

**(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—**

**(1) IN GENERAL.—**Section 1128(a) (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

**“(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—**Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.”.

**(2) CONFORMING AMENDMENT.—**Paragraph (1) of section 1128(b) (42 U.S.C. 1320a-7(b)) is amended to read as follows:

**“(1) CONVICTION RELATING TO FRAUD.—**Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Port-

ability and Accountability Act of 1996, under Federal or State law—

“(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

“(i) in connection with the delivery of a health care item or service, or

“(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

“(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.”.

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

“(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.”.

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking “CONVICTION” and inserting “MISDEMEANOR CONVICTION”; and

(B) by striking “criminal offense” and inserting “criminal offense consisting of a misdemeanor”.

**SEC. 212. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.**

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

“(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

“(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

“(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.”

**SEC. 213. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.**

Section 1128(b) (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

“(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—

(A) Any individual—

“(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

“(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

“(B) For purposes of subparagraph (A), the term ‘sanctioned entity’ means an entity—

“(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

“(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.”

**SEC. 214. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.**

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking “may prescribe” and inserting “may prescribe, except that such period may not be less than 1 year”.

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking “shall remain” and inserting “shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain”.

(b) REPEAL OF “UNWILLING OR UNABLE” CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking “and determines” and all that follows through “such obligations,”; and

(2) by striking the third sentence.

**SEC. 215. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.**

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking “the Secretary may terminate” and all that follows and inserting “in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

“(A) has failed substantially to carry out the contract;



“(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

“(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).”

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

“(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1), the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

“(i) Civil money penalties of not more than \$25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization’s contract.

“(ii) Civil money penalties of not more than \$10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

“(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.”

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

“(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

“(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary’s determination under paragraph (1) and the organization fails to develop or implement such a plan;

“(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization’s attention;

“(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

“(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.”

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking “an agreement” and inserting “a written agreement”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1997.

42 USC 1395mm  
note.

**SEC. 216. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR RISK-SHARING ARRANGEMENTS.**

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)) is amended—

- (1) by striking “and” at the end of subparagraph (D);
- (2) by striking the period at the end of subparagraph (E) and inserting “; and”; and
- (3) by adding at the end the following new subparagraph:  
“(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876 or if the written agreement, through a risk-sharing arrangement, places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide.”.

(b) NEGOTIATED RULEMAKING FOR RISK-SHARING EXCEPTION.—

42 USC 1320a-  
7b note.

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards relating to the exception for risk-sharing arrangements to the anti-kickback penalties described in section 1128B(b)(3)(F) of the Social Security Act, as added by subsection (a).

(B) FACTORS TO CONSIDER.—In establishing standards relating to the exception for risk-sharing arrangements to the anti-kickback penalties under subparagraph (A), the Secretary—

(i) shall consult with the Attorney General and representatives of the hospital, physician, other health practitioner, and health plan communities, and other interested parties; and

(ii) shall take into account—

(I) the level of risk appropriate to the size and type of arrangement;

(II) the frequency of assessment and distribution of incentives;

(III) the level of capital contribution; and

(IV) the extent to which the risk-sharing arrangement provides incentives to control the cost and quality of health care services.

(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this Act.

(3) **TARGET DATE FOR PUBLICATION OF RULE.**—As part of the notice under paragraph (2), and for purposes of this subsection, the “target date for publication” (referred to in section 564(a)(5) of such title) shall be January 1, 1997.

(4) **ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.**—In applying section 564(c) of such title under this subsection, “15 days” shall be substituted for “30 days”.

(5) **APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.**—The Secretary shall provide for—

(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

(6) **PRELIMINARY COMMITTEE REPORT.**—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than October 1, 1996, regarding the committee’s progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress toward such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

(7) **FINAL COMMITTEE REPORT.**—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target publication date.

(8) **INTERIM, FINAL EFFECT.**—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

(9) **PUBLICATION OF RULE AFTER PUBLIC COMMENT.**—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to written agreements entered into on or after January 1, 1997, without regard to whether regulations have been issued to implement such amendments.

#### **SEC. 217. CRIMINAL PENALTY FOR FRAUDULENT DISPOSITION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.**

Section 1128B(a) (42 U.S.C. 1320a-7b(a)) is amended—

(1) by striking “or” at the end of paragraph (4);

(2) by adding “or” at the end of paragraph (5); and

Federal Register,  
publication.

42 USC 1320a-  
7b note.

(3) by inserting after paragraph (5) the following new paragraph:

“(6) knowingly and willfully disposes of assets (including by any transfer in trust) in order for an individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c).”.

**SEC. 218. EFFECTIVE DATE.**

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

42 USC 1320a-7  
note.

## **Subtitle C—Data Collection**

**SEC. 221. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.**

(a) **IN GENERAL.**—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 201 and 205, is amended by inserting after section 1128D the following new section:

**“HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM**

**“SEC. 1128E. (a) GENERAL PURPOSE.**—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c), and shall maintain a database of the information collected under this section.

42 USC 1320a-7e.

**“(b) REPORTING OF INFORMATION.—**

**“(1) IN GENERAL.**—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

**“(2) INFORMATION TO BE REPORTED.**—The information to be reported under paragraph (1) includes:

**“(A)** The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

**“(B)** The name (if known) of any health care entity with which a health care provider, supplier, or practitioner, who is the subject of a final adverse action, is affiliated or associated.

**“(C)** The nature of the final adverse action and whether such action is on appeal.

**“(D)** A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

**“(3) CONFIDENTIALITY.**—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

“(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

“(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

“(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

“(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section with respect to a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

“(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

“(B) procedures in the case of disputed accuracy of the information.

“(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

“(d) ACCESS TO REPORTED INFORMATION.—

“(1) AVAILABILITY.—The information in the database maintained under this section shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

“(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in such database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

“(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

“(f) COORDINATION WITH NATIONAL PRACTITIONER DATA BANK.—The Secretary shall implement this section in such a manner as to avoid duplication with the reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

“(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

“(1) FINAL ADVERSE ACTION.—

“(A) IN GENERAL.—The term ‘final adverse action’ includes:

“(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

“(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

“(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

“(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

“(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

“(III) any other negative action or finding by such Federal or State agency that is publicly available information.

“(iv) Exclusion from participation in Federal or State health care programs (as defined in sections 1128B(f) and 1128(h), respectively).

“(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

“(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

“(2) PRACTITIONER.—The terms ‘licensed health care practitioner’, ‘licensed practitioner’, and ‘practitioner’ mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

“(3) GOVERNMENT AGENCY.—The term ‘Government agency’ shall include:

“(A) The Department of Justice.

“(B) The Department of Health and Human Services.

“(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans’ Administration.

“(D) State law enforcement agencies.

“(E) State medicaid fraud control units.

“(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

“(4) HEALTH PLAN.—The term ‘health plan’ has the meaning given such term by section 1128C(c).

“(5) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).”.

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: “Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.”.

## Subtitle D—Civil Monetary Penalties

### SEC. 231. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking “programs under title XVIII” and inserting “Federal health care programs (as defined in section 1128B(f)(1))”.

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

“(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Insurance Portability and Accountability Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).”.

(3) In subsection (i)—

(A) in paragraph (2), by striking “title V, XVIII, XIX, or XX of this Act” and inserting “a Federal health care program (as defined in section 1128B(f))”,

(B) in paragraph (4), by striking “a health insurance or medical services program under title XVIII or XIX of this Act” and inserting “a Federal health care program (as so defined)”, and

(C) in paragraph (5), by striking “title V, XVIII, XIX, or XX” and inserting “a Federal health care program (as so defined)”.

(4) By adding at the end the following new subsection:

“(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

“(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

“(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

“(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over

the Federal health care programs to which the claims were submitted.

“(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 (5 U.S.C. App.) with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.”.

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking “or” at the end of paragraph (1)(D);

(2) by striking “, or” at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting “; or”; and

(4) by inserting after paragraph (3) the following new paragraph:

“(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

“(A) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

“(B) is an officer or managing employee (as defined in section 1126(b)) of such an entity;”.

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking “\$2,000” and inserting “\$10,000”;

(2) by inserting “; in cases under paragraph (4), \$10,000 for each day the prohibited relationship occurs” after “false or misleading information was given”; and

(3) by striking “twice the amount” and inserting “3 times the amount”.

(d) CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting “knowingly” before “presents” each place it appears; and

(B) in paragraph (3), by striking “gives” and inserting “knowingly gives or causes to be given”.

(2) DEFINITION OF STANDARD.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)), as amended by subsection (h)(2), is amended by adding at the end the following new paragraph:

“(7) The term ‘should know’ means that a person, with respect to information—

“(A) acts in deliberate ignorance of the truth or falsity of the information; or

“(B) acts in reckless disregard of the truth or falsity of the information,



and no proof of specific intent to defraud is required.”.

(e) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)), as amended by subsection (b), is amended—

(1) in subparagraph (A) by striking “claimed,” and inserting “claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,”;

(2) in subparagraph (C), by striking “or” at the end;

(3) in subparagraph (D), by striking the semicolon and inserting “, or”; and

(4) by inserting after subparagraph (D) the following new subparagraph:

“(E) is for a pattern of medical or other items or services that a person knows or should know are not medically necessary;”.

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking “the actual or estimated cost” and inserting “up to \$10,000 for each instance”.

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 215(a)(2), is amended by adding at the end the following new subparagraph:

“(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).”.

(h) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended—

(A) by striking “or” at the end of paragraph (3);

(B) by striking the semicolon at the end of paragraph

(4) and inserting “, or”; and

(C) by inserting after paragraph (4) the following new paragraph:

“(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);”.

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding at the end the following new paragraph:

“(6) The term ‘remuneration’ includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term ‘remuneration’ does not include—

“(A) the waiver of coinsurance and deductible amounts by a person, if—

“(i) the waiver is not offered as part of any advertisement or solicitation;

“(ii) the person does not routinely waive coinsurance or deductible amounts; and

“(iii) the person—

“(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

“(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

“(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

“(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996; or

“(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.”

(i) **EFFECTIVE DATE.**—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1997.

42 USC 1320a-7a note.

**SEC. 232. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.**

(a) **IN GENERAL.**—Section 1128A(b) (42 U.S.C. 1320a-7a(b)) is amended by adding at the end the following new paragraph:

“(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

“(i) \$5,000, or

“(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

“(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

42 USC 1320a-7a note.

## Subtitle E—Revisions to Criminal Law

### SEC. 241. DEFINITIONS RELATING TO FEDERAL HEALTH CARE OFFENSE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

#### “§ 24. Definitions relating to Federal health care offense

“(a) As used in this title, the term ‘Federal health care offense’ means a violation of, or a criminal conspiracy to violate—

“(1) section 669, 1035, 1347, or 1518 of this title;

“(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program.

“(b) As used in this title, the term ‘health care benefit program’ means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

“24. Definitions relating to Federal health care offense.”.

### SEC. 242. HEALTH CARE FRAUD.

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

#### “§ 1347. Health care fraud

“Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any health care benefit program; or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1347. Health care fraud.”.

42 USC 1395i  
note.

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act (42 U.S.C. 1395i) an amount

equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

**SEC. 243. THEFT OR EMBEZZLEMENT.**

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

**“§ 669. Theft or embezzlement in connection with health care**

“(a) Whoever knowingly and willfully embezzles, steals, or otherwise without authority converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of \$100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

“(b) As used in this section, the term ‘health care benefit program’ has the meaning given such term in section 24(b) of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

“669. Theft or embezzlement in connection with health care.”.

**SEC. 244. FALSE STATEMENTS.**

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

**“§ 1035. False statements relating to health care matters**

“(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully—

“(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

“(2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) As used in this section, the term ‘health care benefit program’ has the meaning given such term in section 24(b) of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

“1035. False statements relating to health care matters.”.

**SEC. 245. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.**

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

**“§ 1518. Obstruction of criminal investigations of health care offenses**

“(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) As used in this section the term ‘criminal investigator’ means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

“1518. Obstruction of criminal investigations of health care offenses.”.

**SEC. 246. LAUNDERING OF MONETARY INSTRUMENTS.**

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following:

“(F) Any act or activity constituting an offense involving a Federal health care offense.”.

**SEC. 247. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.**

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

- (1) by striking “or” at the end of subparagraph (A);
- (2) by inserting “or” at the end of subparagraph (B); and
- (3) by adding at the end the following:

“(C) committing or about to commit a Federal health care offense.”.

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting “or a Federal health care offense” after “title”.

**SEC. 248. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.**

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding after section 3485 the following:

**“§ 3486. Authorized investigative demand procedures**

“(a) AUTHORIZATION.—(1) In any investigation relating to any act or activity involving a Federal health care offense, the Attorney General or the Attorney General’s designee may issue in writing and cause to be served a subpoena—

“(A) requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control; or

“(B) requiring a custodian of records to give testimony concerning the production and authentication of such records.

“(2) A subpoena under this subsection shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

“(3) The production of records shall not be required under this section at any place more than 500 miles distant from the

place where the subpoena for the production of such records is served.

“(4) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

“(b) SERVICE.—A subpoena issued under this section may be served by any person who is at least 18 years of age and is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

“(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony concerning the production and authentication of such records. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

“(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

“(e) LIMITATION ON USE.—(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

“(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

“(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended

by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures."

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486 of title 18)," after "subpoena".

**SEC. 249. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.**

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense."

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made and after all restoration payments (if any) have been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 301(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine

42 USC 1395i  
note.

the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

(3) **RESTORATION PAYMENT.**—Notwithstanding any other provision of law, if the Federal health care offense referred to in paragraph (1) resulted in a loss to an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974, the Secretary of the Treasury shall transfer to such employee welfare benefit plan, from the amount realized from the forfeiture of property referred to in paragraph (1), an amount equal to such loss. For purposes of paragraph (1), the term “restoration payment” means the amount transferred to an employee welfare benefit plan pursuant to this paragraph.

**SEC. 250. RELATION TO ERISA AUTHORITY.**

Nothing in this subtitle shall be construed as affecting the authority of the Secretary of Labor under section 506(b) of the Employee Retirement Income Security Act of 1974, including the Secretary’s authority with respect to violations of title 18, United States Code (as amended by this subtitle).

29 USC 1136  
note.

## **Subtitle F—Administrative Simplification**

**SEC. 261. PURPOSE.**

It is the purpose of this subtitle to improve the Medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

42 USC 1320d  
note.

**SEC. 262. ADMINISTRATIVE SIMPLIFICATION.**

(a) **IN GENERAL.**—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

“PART C—ADMINISTRATIVE SIMPLIFICATION

“DEFINITIONS

“SEC. 1171. For purposes of this part:

“(1) **CODE SET.**—The term ‘code set’ means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

“(2) **HEALTH CARE CLEARINGHOUSE.**—The term ‘health care clearinghouse’ means a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements.

42 USC 1320d.



“(3) HEALTH CARE PROVIDER.—The term ‘health care provider’ includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

“(4) HEALTH INFORMATION.—The term ‘health information’ means any information, whether oral or recorded in any form or medium, that—

“(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

“(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

“(5) HEALTH PLAN.—The term ‘health plan’ means an individual or group plan that provides, or pays the cost of, medical care (as such term is defined in section 2791 of the Public Health Service Act). Such term includes the following, and any combination thereof:

“(A) A group health plan (as defined in section 2791(a) of the Public Health Service Act), but only if the plan—

“(i) has 50 or more participants (as defined in section 3(7) of the Employee Retirement Income Security Act of 1974); or

“(ii) is administered by an entity other than the employer who established and maintains the plan.

“(B) A health insurance issuer (as defined in section 2791(b) of the Public Health Service Act).

“(C) A health maintenance organization (as defined in section 2791(b) of the Public Health Service Act).

“(D) Part A or part B of the Medicare program under title XVIII.

“(E) The medicaid program under title XIX.

“(F) A Medicare supplemental policy (as defined in section 1882(g)(1)).

“(G) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy does not provide sufficiently comprehensive coverage of a benefit so that the policy should be treated as a health plan).

“(H) An employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers.

“(I) The health care program for active military personnel under title 10, United States Code.

“(J) The veterans health care program under chapter 17 of title 38, United States Code.

“(K) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1072(4) of title 10, United States Code.

“(L) The Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

“(M) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

“(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term ‘individually identifiable health information’ means any information, including demographic information collected from an individual, that—

“(A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

“(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

“(i) identifies the individual; or

“(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

“(7) STANDARD.—The term ‘standard’, when used with reference to a data element of health information or a transaction referred to in section 1173(a)(1), means any such data element or transaction that meets each of the standards and implementation specifications adopted or established by the Secretary with respect to the data element or transaction under sections 1172 through 1174.

“(8) STANDARD SETTING ORGANIZATION.—The term ‘standard setting organization’ means a standard setting organization accredited by the American National Standards Institute, including the National Council for Prescription Drug Programs, that develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this part.

#### “GENERAL REQUIREMENTS FOR ADOPTION OF STANDARDS

“SEC. 1172. (a) APPLICABILITY.—Any standard adopted under this part shall apply, in whole or in part, to the following persons: 42 USC 1320d-1.

“(1) A health plan.

“(2) A health care clearinghouse.

“(3) A health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173(a)(1).

“(b) REDUCTION OF COSTS.—Any standard adopted under this part shall be consistent with the objective of reducing the administrative costs of providing and paying for health care.

“(c) ROLE OF STANDARD SETTING ORGANIZATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any standard adopted under this part shall be a standard that has been developed, adopted, or modified by a standard setting organization.

“(2) SPECIAL RULES.—

“(A) DIFFERENT STANDARDS.—The Secretary may adopt a standard that is different from any standard developed, adopted, or modified by a standard setting organization, if—

“(i) the different standard will substantially reduce administrative costs to health care providers and health plans compared to the alternatives; and

“(ii) the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

“(B) NO STANDARD BY STANDARD SETTING ORGANIZATION.—If no standard setting organization has developed, adopted, or modified any standard relating to a standard that the Secretary is authorized or required to adopt under this part—

“(i) paragraph (1) shall not apply; and

“(ii) subsection (f) shall apply.

“(3) CONSULTATION REQUIREMENT.—

“(A) IN GENERAL.—A standard may not be adopted under this part unless—

“(i) in the case of a standard that has been developed, adopted, or modified by a standard setting organization, the organization consulted with each of the organizations described in subparagraph (B) in the course of such development, adoption, or modification; and

“(ii) in the case of any other standard, the Secretary, in complying with the requirements of subsection (f), consulted with each of the organizations described in subparagraph (B) before adopting the standard.

“(B) ORGANIZATIONS DESCRIBED.—The organizations referred to in subparagraph (A) are the following:

“(i) The National Uniform Billing Committee.

“(ii) The National Uniform Claim Committee.

“(iii) The Workgroup for Electronic Data Interchange.

“(iv) The American Dental Association.

“(d) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards adopted under this part.

“(e) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, a standard adopted under this part shall not require disclosure of trade secrets or confidential commercial information by a person required to comply with this part.

“(f) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this part, the Secretary shall rely on the recommendations of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)), and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics regarding the adoption of a standard under this part.

“(g) APPLICATION TO MODIFICATIONS OF STANDARDS.—This section shall apply to a modification to a standard (including an addition to a standard) adopted under section 1174(b) in the same manner as it applies to an initial standard adopted under section 1174(a).

“STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS

“SEC. 1173. (a) STANDARDS TO ENABLE ELECTRONIC EXCHANGE.—

Federal Register,  
publication.

42 USC 1320d-2.

“(1) IN GENERAL.—The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for—

“(A) the financial and administrative transactions described in paragraph (2); and

“(B) other financial and administrative transactions determined appropriate by the Secretary, consistent with the goals of improving the operation of the health care system and reducing administrative costs.

“(2) TRANSACTIONS.—The transactions referred to in paragraph (1)(A) are transactions with respect to the following:

“(A) Health claims or equivalent encounter information.

“(B) Health claims attachments.

“(C) Enrollment and disenrollment in a health plan.

“(D) Eligibility for a health plan.

“(E) Health care payment and remittance advice.

“(F) Health plan premium payments.

“(G) First report of injury.

“(H) Health claim status.

“(I) Referral certification and authorization.

“(3) ACCOMMODATION OF SPECIFIC PROVIDERS.—The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

“(b) UNIQUE HEALTH IDENTIFIERS.—

“(1) IN GENERAL.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

“(2) USE OF IDENTIFIERS.—The standards adopted under paragraph (1) shall specify the purposes for which a unique health identifier may be used.

“(c) CODE SETS.—

“(1) IN GENERAL.—The Secretary shall adopt standards that—

“(A) select code sets for appropriate data elements for the transactions referred to in subsection (a)(1) from among the code sets that have been developed by private and public entities; or

“(B) establish code sets for such data elements if no code sets for the data elements have been developed.

“(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

“(d) SECURITY STANDARDS FOR HEALTH INFORMATION.—

“(1) SECURITY STANDARDS.—The Secretary shall adopt security standards that—

“(A) take into account—

“(i) the technical capabilities of record systems used to maintain health information;

“(ii) the costs of security measures;

“(iii) the need for training persons who have access to health information;

“(iv) the value of audit trails in computerized record systems; and

“(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

“(B) ensure that a health care clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the health care clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

“(2) SAFEGUARDS.—Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

“(A) to ensure the integrity and confidentiality of the information;

“(B) to protect against any reasonably anticipated—

“(i) threats or hazards to the security or integrity of the information; and

“(ii) unauthorized uses or disclosures of the information; and

“(C) otherwise to ensure compliance with this part by the officers and employees of such person.

“(e) ELECTRONIC SIGNATURE.—

“(1) STANDARDS.—The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

“(2) EFFECT OF COMPLIANCE.—Compliance with the standards adopted under paragraph (1) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

“(f) TRANSFER OF INFORMATION AMONG HEALTH PLANS.—The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

#### “TIMETABLES FOR ADOPTION OF STANDARDS

42 USC 1320d-3.

“SEC. 1174. (a) INITIAL STANDARDS.—The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

“(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.

“(2) SPECIAL RULES.—

“(A) FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this part during the 12-month period beginning on the date the standard is initially adopted, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

“(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

“(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

“(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements of health information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

“REQUIREMENTS

“SEC. 1175. (a) CONDUCT OF TRANSACTIONS BY PLANS.—

42 USC 1320d-4.

“(1) IN GENERAL.—If a person desires to conduct a transaction referred to in section 1173(a)(1) with a health plan as a standard transaction—

“(A) the health plan may not refuse to conduct such transaction as a standard transaction;

“(B) the insurance plan may not delay such transaction, or otherwise adversely affect, or attempt to adversely affect, the person or the transaction on the ground that the transaction is a standard transaction; and

“(C) the information transmitted and received in connection with the transaction shall be in the form of standard data elements of health information.

“(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirements under paragraph (1) by—

“(A) directly transmitting and receiving standard data elements of health information; or

“(B) submitting nonstandard data elements to a health care clearinghouse for processing into standard data elements and transmission by the health care clearinghouse, and receiving standard data elements through the health care clearinghouse.

“(3) TIMETABLE FOR COMPLIANCE.—Paragraph (1) shall not be construed to require a health plan to comply with any standard, implementation specification, or modification to a standard or specification adopted or established by the Secretary under sections 1172 through 1174 at any time prior to the date on which the plan is required to comply with the standard or specification under subsection (b).

“(b) COMPLIANCE WITH STANDARDS.—

“(1) INITIAL COMPLIANCE.—

“(A) IN GENERAL.—Not later than 24 months after the date on which an initial standard or implementation specification is adopted or established under sections 1172 and 1173, each person to whom the standard or implementation specification applies shall comply with the standard or specification.

“(B) SPECIAL RULE FOR SMALL HEALTH PLANS.—In the case of a small health plan, paragraph (1) shall be applied by substituting ‘36 months’ for ‘24 months’. For purposes of this subsection, the Secretary shall determine the plans that qualify as small health plans.

“(2) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modification to a standard or implementation specification under this part, each person to whom the standard or implementation specification applies shall comply with the modified standard or implementation specification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. The time determined appropriate under the preceding sentence may not be earlier than the last day of the 180-day period beginning on the date such modification is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines that such extension is appropriate.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit any person from complying with a standard or specification by—

“(A) submitting nonstandard data elements to a health care clearinghouse for processing into standard data elements and transmission by the health care clearinghouse; or

“(B) receiving standard data elements through a health care clearinghouse.

“GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS

42 USC 1320d-5.

“SEC. 1176. (a) GENERAL PENALTY.—

“(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than \$100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed \$25,000.

“(2) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

“(b) LIMITATIONS.—

“(1) OFFENSES OTHERWISE PUNISHABLE.—A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.

“(2) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by

exercising reasonable diligence would not have known, that such person violated the provision.

“(3) FAILURES DUE TO REASONABLE CAUSE.—

“(A) IN GENERAL.—Except as provided in subparagraph

(B), a penalty may not be imposed under subsection (a) if—

“(i) the failure to comply was due to reasonable cause and not to willful neglect; and

“(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

“(B) EXTENSION OF PERIOD.—

“(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

“(ii) ASSISTANCE.—If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.

“(4) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

“WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

“SEC. 1177. (a) OFFENSE.—A person who knowingly and in violation of this part— 42 USC 1320d-6.

“(1) uses or causes to be used a unique health identifier;

“(2) obtains individually identifiable health information relating to an individual; or

“(3) discloses individually identifiable health information to another person, shall be punished as provided in subsection (b).

“(b) PENALTIES.—A person described in subsection (a) shall—

“(1) be fined not more than \$50,000, imprisoned not more than 1 year, or both;

“(2) if the offense is committed under false pretenses, be fined not more than \$100,000, imprisoned not more than 5 years, or both; and

“(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than \$250,000, imprisoned not more than 10 years, or both.

“EFFECT ON STATE LAW

“SEC. 1178. (a) GENERAL EFFECT.—

42 USC 1320d-7.



“(1) GENERAL RULE.—Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

“(2) EXCEPTIONS.—A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law—

“(A) is a provision the Secretary determines—

“(i) is necessary—

“(I) to prevent fraud and abuse;

“(II) to ensure appropriate State regulation of insurance and health plans;

“(III) for State reporting on health care delivery or costs; or

“(IV) for other purposes; or

“(ii) addresses controlled substances; or

“(B) subject to section 264(c)(2) of the Health Insurance Portability and Accountability Act of 1996, relates to the privacy of individually identifiable health information.

“(b) PUBLIC HEALTH.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

“(c) STATE REGULATORY REPORTING.—Nothing in this part shall limit the ability of a State to require a health plan to report, or to provide access to, information for management audits, financial audits, program monitoring and evaluation, facility licensure or certification, or individual licensure or certification.

#### “PROCESSING PAYMENT TRANSACTIONS BY FINANCIAL INSTITUTIONS

42 USC 1320d-8.

“SEC. 1179. To the extent that an entity is engaged in activities of a financial institution (as defined in section 1101 of the Right to Financial Privacy Act of 1978), or is engaged in authorizing, processing, clearing, settling, billing, transferring, reconciling, or collecting payments, for a financial institution, this part, and any standard adopted under this part, shall not apply to the entity with respect to such activities, including the following:

“(1) The use or disclosure of information by the entity for authorizing, processing, clearing, settling, billing, transferring, reconciling or collecting, a payment for, or related to, health plan premiums or health care, where such payment is made by any means, including a credit, debit, or other payment card, an account, check, or electronic funds transfer.

“(2) The request for, or the use or disclosure of, information by the entity with respect to a payment described in paragraph (1)—

“(A) for transferring receivables;

“(B) for auditing;

“(C) in connection with—

“(i) a customer dispute; or

“(ii) an inquiry from, or to, a customer;  
“(D) in a communication to a customer of the entity regarding the customer’s transactions, payment card, account, check, or electronic funds transfer;

“(E) for reporting to consumer reporting agencies; or

“(F) for complying with—

“(i) a civil or criminal subpoena; or

“(ii) a Federal or State law regulating the entity.”.

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENT FOR MEDICARE PROVIDERS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking “and” at the end of subparagraph (P);

(B) by striking the period at the end of subparagraph (Q) and inserting “; and”; and

(C) by inserting immediately after subparagraph (Q) the following new subparagraph:

“(R) to contract only with a health care clearinghouse (as defined in section 1171) that meets each standard and implementation specification adopted or established under part C of title XI on or after the date on which the health care clearinghouse is required to comply with the standard or specification.”.

(2) TITLE HEADING.—Title XI (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

“TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION”.

**SEC. 263. CHANGES IN MEMBERSHIP AND DUTIES OF NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.**

Section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) is amended—

(1) in paragraph (1), by striking “16” and inserting “18”;

(2) by amending paragraph (2) to read as follows:

“(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.”;

(3) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

“(3) Of the members of the Committee—

“(A) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, by the Speaker of the House of Representatives after consultation with the Minority Leader of the House of Representatives;

“(B) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, by the President pro tempore

of the Senate after consultation with the Minority Leader of the Senate; and

“(C) 16 shall be appointed by the Secretary.”;

(4) by amending paragraph (5) (as so redesignated) to read as follows:

“(5) The Committee—

“(A) shall assist and advise the Secretary—

“(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

“(ii) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

“(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

“(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1);

“(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

“(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

“(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

“(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act;

“(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

“(C) shall report to the Secretary not later than 4 years after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996 recommendations and legislative proposals for such standards and electronic exchange; and

Reports.

Reports.

“(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act.”; and

(5) by adding at the end the following:

“(7) Not later than 1 year after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding the implementation of part C of title XI of the Social Security Act. Such report shall address the following subjects, to the extent that the Committee determines appropriate:

Reports.

“(A) The extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part.

“(B) The extent to which such entities are meeting the security standards adopted under such part and the types of penalties assessed for noncompliance with such standards.

“(C) Whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part.

“(D) Any problems that exist with respect to implementation of such part.

“(E) The extent to which timetables under such part are being met.”.

**SEC. 264. RECOMMENDATIONS WITH RESPECT TO PRIVACY OF CERTAIN HEALTH INFORMATION.**

42 USC 1320d-2  
note.

(a) **IN GENERAL.**—Not later than the date that is 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Labor and Human Resources and the Committee on Finance of the Senate and the Committee on Commerce and the Committee on Ways and Means of the House of Representatives detailed recommendations on standards with respect to the privacy of individually identifiable health information.

(b) **SUBJECTS FOR RECOMMENDATIONS.**—The recommendations under subsection (a) shall address at least the following:

(1) The rights that an individual who is a subject of individually identifiable health information should have.

(2) The procedures that should be established for the exercise of such rights.

(3) The uses and disclosures of such information that should be authorized or required.

(c) **REGULATIONS.**—

(1) **IN GENERAL.**—If legislation governing standards with respect to the privacy of individually identifiable health information transmitted in connection with the transactions described in section 1173(a) of the Social Security Act (as added by section 262) is not enacted by the date that is 36 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations containing such standards not later than the date that is 42 months after the date of the enactment of this Act. Such regulations shall address at least the subjects described in subsection (b).

Regulations.

(2) **PREEMPTION.**—A regulation promulgated under paragraph (1) shall not supercede a contrary provision of State

law, if the provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under the regulation.

(d) CONSULTATION.—In carrying out this section, the Secretary of Health and Human Services shall consult with—

(1) the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)); and

(2) the Attorney General.

## Subtitle G—Duplication and Coordination of Medicare-Related Plans

### SEC. 271. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(1) in clause (iii), by striking “clause (i)” and inserting “clause (i)(II)”; and

(2) by adding at the end the following:

“(iv) For purposes of this subparagraph, a health insurance policy (other than a Medicare supplemental policy) providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to ‘duplicate’ any health benefits under this title, under title XIX, or under a health insurance policy, and subclauses (I) and (III) of clause (i) do not apply to such a policy.

“(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy) is not considered to ‘duplicate’ health benefits under this title or under another health insurance policy if it—

“(I) provides health care benefits only for long-term care, nursing home care, home health care, or community-based care, or any combination thereof,

“(II) coordinates against or excludes items and services available or paid for under this title or under another health insurance policy, and

“(III) for policies sold or issued on or after the end of the 90-day period beginning on the date of enactment of the Health Insurance Portability and Accountability Act of 1996 discloses such coordination or exclusion in the policy’s outline of coverage.

For purposes of this clause, the terms ‘coordinates’ and ‘coordination’ mean, with respect to a policy in relation to health benefits under this title or under another health insurance policy, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title or under another health insurance policy.

“(vi)(I) An individual entitled to benefits under part A or enrolled under part B of this title who is applying for a health insurance policy (other than a policy described in subclause (III)) shall be furnished a disclosure statement described in clause (vii) for the type of policy being applied for. Such statement shall be

furnished as a part of (or together with) the application for such policy.

“(II) Whoever issues or sells a health insurance policy (other than a policy described in subclause (III)) to an individual described in subclause (I) and fails to furnish the appropriate disclosure statement as required under such subclause shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed \$25,000 (or \$15,000 in the case of a person other than the issuer of the policy) for each such violation.

“(III) A policy described in this subclause (to which subclauses (I) and (II) do not apply) is a Medicare supplemental policy or a health insurance policy identified under 60 Federal Register 30880 (June 12, 1995) as a policy not required to have a disclosure statement.

“(IV) Any reference in this section to the revised NAIC model regulation (referred to in subsection (m)(1)(A)) is deemed a reference to such regulation as revised by section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103-432) and as modified by substituting, for the disclosure required under section 16D(2), disclosure under subclause (I) of an appropriate disclosure statement under clause (vii).

“(vii) The disclosure statement described in this clause for a type of policy is the statement specified under subparagraph (D) of this paragraph (as in effect before the date of the enactment of the Health Insurance Portability and Accountability Act of 1996) for that type of policy, as revised as follows:

“(I) In each statement, amend the second line to read as follows:

**‘THIS IS NOT MEDICARE SUPPLEMENT INSURANCE’.**

“(II) In each statement, strike the third line and insert the following: **‘Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.’**

“(III) In each statement not described in subclause (V), strike the boldface matter that begins **‘This insurance’** and all that follows up to the next paragraph that begins **‘Medicare’**.

“(IV) In each statement not described in subclause (V), insert before the boxed matter (that states **‘Before You Buy This Insurance’**) the following: **‘This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.’**

“(V) In a statement relating to policies providing both nursing home and non-institutional coverage, to policies providing nursing home benefits only, or policies providing home care benefits only, amend the sentence that begins **‘Federal law’** to read as follows: **‘Federal law requires us to inform you that in certain situations this insurance may pay for some care also covered by Medicare.’**

“(viii)(I) Subject to subclause (II), nothing in this subparagraph shall restrict or preclude a State’s ability to regulate health insur-

ance policies, including any health insurance policy that is described in clause (iv), (v), or (vi)(III).

“(II) A State may not declare or specify, in statute, regulation, or otherwise, that a health insurance policy (other than a Medicare supplemental policy) or rider to an insurance contract which is not a health insurance policy, that is described in clause (iv), (v), or (vi)(III) and that is sold, issued, or renewed to an individual entitled to benefits under part A or enrolled under part B ‘duplicates’ health benefits under this title or under a Medicare supplemental policy.”

(b) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking “with respect to (i)” and inserting “with respect to”, and

(B) by striking “, (ii) the sale” and all that follows up to the period at the end; and

(2) by striking subparagraph (D).

(c) TRANSITIONAL PROVISION.—

(1) NO PENALTIES.—Subject to paragraph (3), no criminal or civil money penalty may be imposed under section 1882(d)(3)(A) of the Social Security Act for any act or omission that occurred during the transition period (as defined in paragraph (4)) and that relates to any health insurance policy that is described in clause (iv) or (v) of such section (as amended by subsection (a)).

(2) LIMITATION ON LEGAL ACTION.—Subject to paragraph (3), no legal action shall be brought or continued in any Federal or State court insofar as such action—

(A) includes a cause of action which arose, or which is based on or evidenced by any act or omission which occurred, during the transition period; and

(B) relates to the application of section 1882(d)(3)(A) of the Social Security Act to any act or omission with respect to the sale, issuance, or renewal of any health insurance policy that is described in clause (iv) or (v) of such section (as amended by subsection (a)).

(3) DISCLOSURE CONDITION.—In the case of a policy described in clause (iv) of section 1882(d)(3)(A) of the Social Security Act that is sold or issued on or after the effective date of statements under section 171(d)(3)(C) of the Social Security Act Amendments of 1994 and before the end of the 30-day period beginning on the date of the enactment of this Act, paragraphs (1) and (2) shall only apply if disclosure was made in accordance with section 1882(d)(3)(C)(ii) of the Social Security Act (as in effect before the date of the enactment of this Act).

(4) TRANSITION PERIOD.—In this subsection, the term “transition period” means the period beginning on November 5, 1991, and ending on the date of the enactment of this Act.

(d) EFFECTIVE DATE.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall be effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990.

42 USC 1395ss  
note.

42 USC 1395ss  
note.

(2)(A) Clause (vi) of section 1882(d)(3)(A) of the Social Security Act, as added by subsection (a), shall only apply to individuals applying for—

(i) a health insurance policy described in section 1882(d)(3)(A)(iv) of such Act (as added by subsection (a)), after the date of the enactment of this Act, or

(ii) another health insurance policy after the end of the 30-day period beginning on the date of the enactment of this Act.

(B) A seller or issuer of a health insurance policy may substitute, for the disclosure statement described in clause (vii) of such section, the statement specified under section 1882(d)(3)(D) of the Social Security Act (as in effect before the date of the enactment of this Act), without the revision specified in such clause.

## **TITLE III—TAX-RELATED HEALTH PROVISIONS**

### **SEC. 300. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## **Subtitle A—Medical Savings Accounts**

### **SEC. 301. MEDICAL SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

#### **“SEC. 220. MEDICAL SAVINGS ACCOUNTS.**

“(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

#### **“(b) LIMITATIONS.—**

“(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed the sum of the monthly limitations for months during such taxable year that the individual is an eligible individual.

“(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to  $\frac{1}{12}$  of—

“(A) in the case of an individual who has self-only coverage under the high deductible health plan as of the first day of such month, 65 percent of the annual deductible under such coverage, and

“(B) in the case of an individual who has family coverage under the high deductible health plan as of the



first day of such month, 75 percent of the annual deductible under such coverage.

“(3) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of individuals who are married to each other, if either spouse has family coverage—

“(A) both spouses shall be treated as having only such family coverage (and if such spouses each have family coverage under different plans, as having the family coverage with the lowest annual deductible), and

“(B) the limitation under paragraph (1) (after the application of subparagraph (A) of this paragraph) shall be divided equally between them unless they agree on a different division.

“(4) DEDUCTION NOT TO EXCEED COMPENSATION.—

“(A) EMPLOYEES.—The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (I) of subsection (c)(1)(A)(iii) shall not exceed such individual’s wages, salaries, tips, and other employee compensation which are attributable to such individual’s employment by the employer referred to in such subclause.

“(B) SELF-EMPLOYED INDIVIDUALS.—The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (II) of subsection (c)(1)(A)(iii) shall not exceed such individual’s earned income (as defined in section 401(c)(1)) derived by the taxpayer from the trade or business with respect to which the high deductible health plan is established.

“(C) COMMUNITY PROPERTY LAWS NOT TO APPLY.—The limitations under this paragraph shall be determined without regard to community property laws.

“(5) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

“(A) any amount is contributed to any medical savings account of such individual for such year which is excludable from gross income under section 106(b), or

“(B) if such individual’s spouse is covered under the high deductible health plan covering such individual, any amount is contributed for such year to any medical savings account of such spouse which is so excludable.

“(6) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.

“(c) DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘eligible individual’ means, with respect to any month, any individual if—

“(i) such individual is covered under a high deductible health plan as of the 1st day of such month,

“(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

“(I) which is not a high deductible health plan,  
and

“(II) which provides coverage for any benefit  
which is covered under the high deductible health  
plan, and

“(iii)(I) the high deductible health plan covering  
such individual is established and maintained by  
the employer of such individual or of the spouse of  
such individual and such employer is a small employer,  
or

“(II) such individual is an employee (within the  
meaning of section 401(c)(1)) or the spouse of such  
an employee and the high deductible health plan cover-  
ing such individual is not established or maintained  
by any employer of such individual or spouse.

“(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph  
(A)(ii) shall be applied without regard to—

“(i) coverage for any benefit provided by permitted  
insurance, and

“(ii) coverage (whether through insurance or other-  
wise) for accidents, disability, dental care, vision care,  
or long-term care.

“(C) CONTINUED ELIGIBILITY OF EMPLOYEE AND SPOUSE  
ESTABLISHING MEDICAL SAVINGS ACCOUNTS.—If, while an  
employer is a small employer—

“(i) any amount is contributed to a medical savings  
account of an individual who is an employee of such  
employer or the spouse of such an employee, and

“(ii) such amount is excludable from gross income  
under section 106(b) or allowable as a deduction under  
this section,

such individual shall not cease to meet the requirement  
of subparagraph (A)(iii)(I) by reason of such employer ceas-  
ing to be a small employer so long as such employee contin-  
ues to be an employee of such employer.

“(D) LIMITATIONS ON ELIGIBILITY.—

“For limitations on number of taxpayers who are eligible to have  
medical savings accounts, see subsection (i).

“(2) HIGH DEDUCTIBLE HEALTH PLAN.—

“(A) IN GENERAL.—The term ‘high deductible health  
plan’ means a health plan—

“(i) in the case of self-only coverage, which has  
an annual deductible which is not less than \$1,500  
and not more than \$2,250,

“(ii) in the case of family coverage, which has  
an annual deductible which is not less than \$3,000  
and not more than \$4,500, and

“(iii) the annual out-of-pocket expenses required  
to be paid under the plan (other than for premiums)  
for covered benefits does not exceed—

“(I) \$3,000 for self-only coverage, and

“(II) \$5,500 for family coverage.

“(B) SPECIAL RULES.—

“(i) EXCLUSION OF CERTAIN PLANS.—Such term does  
not include a health plan if substantially all of its  
coverage is coverage described in paragraph (1)(B).

“(ii) **SAFE HARBOR FOR ABSENCE OF PREVENTIVE CARE DEDUCTIBLE.**—A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for preventive care if the absence of a deductible for such care is required by State law.

“(3) **PERMITTED INSURANCE.**—The term ‘permitted insurance’ means—

“(A) Medicare supplemental insurance,

“(B) insurance if substantially all of the coverage provided under such insurance relates to—

“(i) liabilities incurred under workers’ compensation laws,

“(ii) tort liabilities,

“(iii) liabilities relating to ownership or use of property, or

“(iv) such other similar liabilities as the Secretary may specify by regulations,

“(C) insurance for a specified disease or illness, and

“(D) insurance paying a fixed amount per day (or other period) of hospitalization.

“(4) **SMALL EMPLOYER.**—

“(A) **IN GENERAL.**—The term ‘small employer’ means, with respect to any calendar year, any employer if such employer employed an average of 50 or fewer employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

“(B) **EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.**—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

“(C) **CERTAIN GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.**—The term ‘small employer’ includes, with respect to any calendar year, any employer if—

“(i) such employer met the requirement of subparagraph (A) (determined without regard to subparagraph (B)) for any preceding calendar year after 1996,

“(ii) any amount was contributed to the medical savings account of any employee of such employer with respect to coverage of such employee under a high deductible health plan of such employer during such preceding calendar year and such amount was excludable from gross income under section 106(b) or allowable as a deduction under this section, and

“(iii) such employer employed an average of 200 or fewer employees on business days during each preceding calendar year after 1996.

“(D) **SPECIAL RULES.**—

“(i) **CONTROLLED GROUPS.**—For purposes of this paragraph, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

“(ii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

“(5) FAMILY COVERAGE.—The term ‘family coverage’ means any coverage other than self-only coverage.

“(d) MEDICAL SAVINGS ACCOUNT.—For purposes of this section—

“(1) MEDICAL SAVINGS ACCOUNT.—The term ‘medical savings account’ means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

“(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

“(i) unless it is in cash, or

“(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds 75 percent of the highest annual limit deductible permitted under subsection (c)(2)(A)(ii) for such calendar year.

“(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

“(C) No part of the trust assets will be invested in life insurance contracts.

“(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

“(E) The interest of an individual in the balance in his account is nonforfeitable.

“(2) QUALIFIED MEDICAL EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified medical expenses’ means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

“(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply to any payment for insurance.

“(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for coverage under—

“(I) a health plan during any period of continuation coverage required under any Federal law,

“(II) a qualified long-term care insurance contract (as defined in section 7702B(b)), or

“(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

“(C) MEDICAL EXPENSES OF INDIVIDUALS WHO ARE NOT ELIGIBLE INDIVIDUALS.—Subparagraph (A) shall apply to an amount paid by an account holder for medical care of an individual who is not an eligible individual for the month in which the expense for such care is incurred only if no amount is contributed (other than a rollover contribution) to any medical savings account of such account holder for the taxable year which includes such month. This subparagraph shall not apply to any expense for coverage described in subclause (I) or (III) of subparagraph (B)(ii).

“(3) ACCOUNT HOLDER.—The term ‘account holder’ means the individual on whose behalf the medical savings account was established.

“(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

“(A) Section 219(d)(2) (relating to no deduction for rollovers).

“(B) Section 219(f)(3) (relating to time when contributions deemed made).

“(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

“(D) Section 408(g) (relating to community property laws).

“(E) Section 408(h) (relating to custodial accounts).

“(e) TAX TREATMENT OF ACCOUNTS.—

“(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account. Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

“(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

“(f) TAX TREATMENT OF DISTRIBUTIONS.—

“(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder shall not be includible in gross income.

“(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder shall be included in the gross income of such holder.

“(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—

“(A) IN GENERAL.—If any excess contribution is contributed for a taxable year to any medical savings account of an individual, paragraph (2) shall not apply to distributions from the medical savings accounts of such individual (to the extent such distributions do not exceed the aggregate excess contributions to all such accounts of such individual for such year) if—

“(i) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual’s return for such taxable year, and

“(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the individual for the taxable year in which it is received.

“(B) EXCESS CONTRIBUTION.—For purposes of subparagraph (A), the term ‘excess contribution’ means any contribution (other than a rollover contribution) which is neither excludable from gross income under section 106(b) nor deductible under this section.

“(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

“(A) IN GENERAL.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 15 percent of the amount which is so includible.

“(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

“(C) EXCEPTION FOR DISTRIBUTIONS AFTER MEDICARE ELIGIBILITY.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains the age specified in section 1811 of the Social Security Act.

“(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

“(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

“(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual’s gross income because of the application of this paragraph.

“(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

“(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual’s interest in a medical savings account

to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which such spouse is the account holder.

“(8) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

“(A) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—If the account holder's surviving spouse acquires such holder's interest in a medical savings account by reason of being the designated beneficiary of such account at the death of the account holder, such medical savings account shall be treated as if the spouse were the account holder.

“(B) OTHER CASES.—

“(i) IN GENERAL.—If, by reason of the death of the account holder, any person acquires the account holder's interest in a medical savings account in a case to which subparagraph (A) does not apply—

“(I) such account shall cease to be a medical savings account as of the date of death, and

“(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

“(ii) SPECIAL RULES.—

“(I) REDUCTION OF INCLUSION FOR PRE-DEATH EXPENSES.—The amount includible in gross income under clause (i) by any person (other than the estate) shall be reduced by the amount of qualified medical expenses which were incurred by the decedent before the date of the decedent's death and paid by such person within 1 year after such date.

“(II) DEDUCTION FOR ESTATE TAXES.—An appropriate deduction shall be allowed under section 691(c) to any person (other than the decedent or the decedent's spouse) with respect to amounts included in gross income under clause (i) by such person.

“(g) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting ‘calendar year 1997’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any increase under the preceding sentence is not a multiple of \$50, such increase shall be rounded to the nearest multiple of \$50.

“(h) REPORTS.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

“(i) LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—

“(1) IN GENERAL.—Except as provided in paragraph (5), no individual shall be treated as an eligible individual for any taxable year beginning after the cut-off year unless—

“(A) such individual was an active MSA participant for any taxable year ending on or before the close of the cut-off year, or

“(B) such individual first became an active MSA participant for a taxable year ending after the cut-off year by reason of coverage under a high deductible health plan of an MSA-participating employer.

“(2) CUT-OFF YEAR.—For purposes of paragraph (1), the term ‘cut-off year’ means the earlier of—

“(A) calendar year 2000, or

“(B) the first calendar year before 2000 for which the Secretary determines under subsection (j) that the numerical limitation for such year has been exceeded.

“(3) ACTIVE MSA PARTICIPANT.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘active MSA participant’ means, with respect to any taxable year, any individual who is the account holder of any medical savings account into which any contribution was made which was excludable from gross income under section 106(b), or allowable as a deduction under this section, for such taxable year.

“(B) SPECIAL RULE FOR CUT-OFF YEARS BEFORE 2000.—In the case of a cut-off year before 2000—

“(i) an individual shall not be treated as an eligible individual for any month of such year or an active MSA participant under paragraph (1)(A) unless such individual is, on or before the cut-off date, covered under a high deductible health plan, and

“(ii) an employer shall not be treated as an MSA-participating employer unless the employer, on or before the cut-off date, offered coverage under a high deductible health plan to any employee.

“(C) CUT-OFF DATE.—For purposes of subparagraph (B)—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the cut-off date is October 1 of the cut-off year.

“(ii) EMPLOYEES WITH ENROLLMENT PERIODS AFTER OCTOBER 1.—In the case of an individual described in subclause (I) of subsection (c)(1)(A)(iii), if the regularly scheduled enrollment period for health plans of the individual’s employer occurs during the last 3 months of the cut-off year, the cut-off date is December 31 of the cut-off year.



“(iii) SELF-EMPLOYED INDIVIDUALS.—In the case of an individual described in subclause (II) of subsection (c)(1)(A)(iii), the cut-off date is November 1 of the cut-off year.

“(iv) SPECIAL RULES FOR 1997.—If 1997 is a cut-off year by reason of subsection (j)(1)(A)—

“(I) each of the cut-off dates under clauses (i) and (iii) shall be 1 month earlier than the date determined without regard to this clause, and

“(II) clause (ii) shall be applied by substituting ‘4 months’ for ‘3 months’.

“(4) MSA-PARTICIPATING EMPLOYER.—For purposes of this subsection, the term ‘MSA-participating employer’ means any small employer if—

“(A) such employer made any contribution to the medical savings account of any employee during the cut-off year or any preceding calendar year which was excludable from gross income under section 106(b), or

“(B) at least 20 percent of the employees of such employer who are eligible individuals for any month of the cut-off year by reason of coverage under a high deductible health plan of such employer each made a contribution of at least \$100 to their medical savings accounts for any taxable year ending with or within the cut-off year which was allowable as a deduction under this section.

“(5) ADDITIONAL ELIGIBILITY AFTER CUT-OFF YEAR.—If the Secretary determines under subsection (j)(2)(A) that the numerical limit for the calendar year following a cut-off year described in paragraph (2)(B) has not been exceeded—

“(A) this subsection shall not apply to any otherwise eligible individual who is covered under a high deductible health plan during the first 6 months of the second calendar year following the cut-off year (and such individual shall be treated as an active MSA participant for purposes of this subsection if a contribution is made to any medical savings account with respect to such coverage), and

“(B) any employer who offers coverage under a high deductible health plan to any employee during such 6-month period shall be treated as an MSA-participating employer for purposes of this subsection if the requirements of paragraph (4) are met with respect to such coverage. For purposes of this paragraph, subsection (j)(2)(A) shall be applied for 1998 by substituting ‘750,000’ for ‘600,000’.

“(j) DETERMINATION OF WHETHER NUMERICAL LIMITS ARE EXCEEDED.—

“(1) DETERMINATION OF WHETHER LIMIT EXCEEDED FOR 1997.—The numerical limitation for 1997 is exceeded if, based on the reports required under paragraph (4), the number of medical savings accounts established as of—

“(A) April 30, 1997, exceeds 375,000, or

“(B) June 30, 1997, exceeds 525,000.

“(2) DETERMINATION OF WHETHER LIMIT EXCEEDED FOR 1998 OR 1999.—

“(A) IN GENERAL.—The numerical limitation for 1998 or 1999 is exceeded if the sum of—

“(i) the number of MSA returns filed on or before April 15 of such calendar year for taxable years ending with or within the preceding calendar year, plus

“(ii) the Secretary’s estimate (determined on the basis of the returns described in clause (i)) of the number of MSA returns for such taxable years which will be filed after such date,

exceeds 600,000 (750,000 in the case of 1999). For purposes of the preceding sentence, the term ‘MSA return’ means any return on which any exclusion is claimed under section 106(b) or any deduction is claimed under this section.

“(B) ALTERNATIVE COMPUTATION OF LIMITATION.—The numerical limitation for 1998 or 1999 is also exceeded if the sum of—

“(i) 90 percent of the sum determined under subparagraph (A) for such calendar year, plus

“(ii) the product of 2.5 and the number of medical savings accounts established during the portion of such year preceding July 1 (based on the reports required under paragraph (4)) for taxable years beginning in such year,

exceeds 750,000.

“(3) PREVIOUSLY UNINSURED INDIVIDUALS NOT INCLUDED IN DETERMINATION.—

“(A) IN GENERAL.—The determination of whether any calendar year is a cut-off year shall be made by not counting the medical savings account of any previously uninsured individual.

“(B) PREVIOUSLY UNINSURED INDIVIDUAL.—For purposes of this subsection, the term ‘previously uninsured individual’ means, with respect to any medical savings account, any individual who had no health plan coverage (other than coverage referred to in subsection (c)(1)(B)) at any time during the 6-month period before the date such individual’s coverage under the high deductible health plan commences.

“(4) REPORTING BY MSA TRUSTEES.—

“(A) IN GENERAL.—Not later than August 1 of 1997, 1998, and 1999, each person who is the trustee of a medical savings account established before July 1 of such calendar year shall make a report to the Secretary (in such form and manner as the Secretary shall specify) which specifies—

“(i) the number of medical savings accounts established before such July 1 (for taxable years beginning in such calendar year) of which such person is the trustee,

“(ii) the name and TIN of the account holder of each such account, and

“(iii) the number of such accounts which are accounts of previously uninsured individuals.

“(B) ADDITIONAL REPORT FOR 1997.—Not later than June 1, 1997, each person who is the trustee of a medical savings account established before May 1, 1997, shall make an additional report described in subparagraph (A) but only with respect to accounts established before May 1, 1997.

“(C) PENALTY FOR FAILURE TO FILE REPORT.—The penalty provided in section 6693(a) shall apply to any report required by this paragraph, except that—

“(i) such section shall be applied by substituting ‘\$25’ for ‘\$50’, and

“(ii) the maximum penalty imposed on any trustee shall not exceed \$5,000.

“(D) AGGREGATION OF ACCOUNTS.—To the extent practicable, in determining the number of medical savings accounts on the basis of the reports under this paragraph, all medical savings accounts of an individual shall be treated as 1 account and all accounts of individuals who are married to each other shall be treated as 1 account.

“(5) DATE OF MAKING DETERMINATIONS.—Any determination under this subsection that a calendar year is a cut-off year shall be made by the Secretary and shall be published not later than October 1 of such year.”.

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

“(16) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220.”.

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

“(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

“(b) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

“(1) IN GENERAL.—In the case of an employee who is an eligible individual, amounts contributed by such employee’s employer to any medical savings account of such employee shall be treated as employer-provided coverage for medical expenses under an accident or health plan to the extent such amounts do not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

“(2) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

“(3) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

“(4) EMPLOYER MSA CONTRIBUTIONS REQUIRED TO BE SHOWN ON RETURN.—Every individual required to file a return under section 6012 for the taxable year shall include on such return the aggregate amount contributed by employers to the medical savings accounts of such individual or such individual’s spouse for such taxable year.

“(5) MSA CONTRIBUTIONS NOT PART OF COBRA COVERAGE.—Paragraph (1) shall not apply for purposes of section 4980B.

“(6) DEFINITIONS.—For purposes of this subsection, the terms ‘eligible individual’ and ‘medical savings account’ have the respective meanings given to such terms by section 220.

“(7) CROSS REFERENCE.—

“For penalty on failure by employer to make comparable contributions to the medical savings accounts of comparable employees, see section 4980E.”

(2) EXCLUSION FROM EMPLOYMENT TAXES.—

(A) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

“(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term ‘compensation’ shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).”

(B) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking “or” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “; or”, and by inserting after paragraph (16) the following new paragraph:

“(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).”

(C) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking “or” at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting “; or”, and by inserting after paragraph (20) the following new paragraph:

“(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).”

(3) EMPLOYER CONTRIBUTIONS REQUIRED TO BE SHOWN ON W-2.—Subsection (a) of section 6051 is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting “, and”, and by inserting after paragraph (10) the following new paragraph:

“(11) the amount contributed to any medical savings account (as defined in section 220(d)) of such employee or such employee’s spouse.”

(4) PENALTY FOR FAILURE OF EMPLOYER TO MAKE COMPARABLE MSA CONTRIBUTIONS.—

(A) IN GENERAL.—Chapter 43 is amended by adding after section 4980D the following new section:

**“SEC. 4980E. FAILURE OF EMPLOYER TO MAKE COMPARABLE MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.**

“(a) GENERAL RULE.—In the case of an employer who makes a contribution to the medical savings account of any employee with respect to coverage under a high deductible health plan of the employer during a calendar year, there is hereby imposed a tax on the failure of such employer to meet the requirements of subsection (d) for such calendar year.

“(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any failure for any calendar year is the amount

equal to 35 percent of the aggregate amount contributed by the employer to medical savings accounts of employees for taxable years of such employees ending with or within such calendar year.

“(c) **WAIVER BY SECRETARY.**—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

“(d) **EMPLOYER REQUIRED TO MAKE COMPARABLE MSA CONTRIBUTIONS FOR ALL PARTICIPATING EMPLOYEES.**—

“(1) **IN GENERAL.**—An employer meets the requirements of this subsection for any calendar year if the employer makes available comparable contributions to the medical savings accounts of all comparable participating employees for each coverage period during such calendar year.

“(2) **COMPARABLE CONTRIBUTIONS.**—

“(A) **IN GENERAL.**—For purposes of paragraph (1), the term ‘comparable contributions’ means contributions—

“(i) which are the same amount, or

“(ii) which are the same percentage of the annual deductible limit under the high deductible health plan covering the employees.

“(B) **PART-YEAR EMPLOYEES.**—In the case of an employee who is employed by the employer for only a portion of the calendar year, a contribution to the medical savings account of such employee shall be treated as comparable if it is an amount which bears the same ratio to the comparable amount (determined without regard to this subparagraph) as such portion bears to the entire calendar year.

“(3) **COMPARABLE PARTICIPATING EMPLOYEES.**—For purposes of paragraph (1), the term ‘comparable participating employees’ means all employees—

“(A) who are eligible individuals covered under any high deductible health plan of the employer, and

“(B) who have the same category of coverage.

For purposes of subparagraph (B), the categories of coverage are self-only and family coverage.

“(4) **PART-TIME EMPLOYEES.**—

“(A) **IN GENERAL.**—Paragraph (3) shall be applied separately with respect to part-time employees and other employees.

“(B) **PART-TIME EMPLOYEE.**—For purposes of subparagraph (A), the term ‘part-time employee’ means any employee who is customarily employed for fewer than 30 hours per week.

“(e) **CONTROLLED GROUPS.**—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

“(f) **DEFINITIONS.**—Terms used in this section which are also used in section 220 have the respective meanings given such terms in section 220.”

(B) **CLERICAL AMENDMENT.**—The table of sections for chapter 43 is amended by adding after the item relating to section 4980D the following new item:

“Sec. 4980E. Failure of employer to make comparable medical savings account contributions.”

(d) **MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.**—Subsection (f) of section 125 of such Code is amended by inserting “106(b),” before “117”.

(e) **TAX ON EXCESS CONTRIBUTIONS.**—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting “**MEDICAL SAVINGS ACCOUNTS,**” after “**ACCOUNTS,**” in the heading of such section,

(2) by striking “or” at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

“(2) a medical savings account (within the meaning of section 220(d)), or”, and

(4) by adding at the end the following new subsection:

“(d) **EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.**—For purposes of this section, in the case of medical savings accounts (within the meaning of section 220(d)), the term ‘excess contributions’ means the sum of—

“(1) the aggregate amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) which is neither excludable from gross income under section 106(b) nor allowable as a deduction under section 220 for such year, and

“(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

“(A) the distributions out of the accounts which were included in gross income under section 220(f)(2), and

“(B) the excess (if any) of—

“(i) the maximum amount allowable as a deduction under section 220(b)(1) (determined without regard to section 106(b)) for the taxable year, over

“(ii) the amount contributed to the accounts for the taxable year.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed.”.

(f) **TAX ON PROHIBITED TRANSACTIONS.**—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

“(4) **SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.**—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account.”.

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

“(1) **PLAN.**—For purposes of this section, the term ‘plan’ means—

“(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

“(B) an individual retirement account described in section 408(a),

“(C) an individual retirement annuity described in section 408(b),

“(D) a medical savings account described in section 220(d), or

“(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph.”

(g) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

“(a) REPORTS.—

“(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of \$50 for each failure unless it is shown that such failure is due to reasonable cause.

“(2) PROVISIONS.—The provisions referred to in this paragraph are—

“(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

“(B) section 220(h) (relating to medical savings accounts).”

(h) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) any contract which is a medical savings account (as defined in section 220(d)).”

(i) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

“Sec. 220. Medical savings accounts.

“Sec. 221. Cross reference.”

26 USC 62 note.

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

26 USC 220 note.

(k) MONITORING OF PARTICIPATION IN MEDICAL SAVINGS ACCOUNTS.—The Secretary of the Treasury or his delegate shall—

(1) during 1997, 1998, 1999, and 2000, regularly evaluate the number of individuals who are maintaining medical savings accounts and the reduction in revenues to the United States by reason of such accounts, and

(2) provide such reports of such evaluations to Congress as such Secretary determines appropriate.

26 USC 220 note.

(l) STUDY OF EFFECTS OF MEDICAL SAVINGS ACCOUNTS ON SMALL GROUP MARKET.—The Comptroller General of the United States shall enter into a contract with an organization with expertise in health economics, health insurance markets, and actuarial

science to conduct a comprehensive study regarding the effects of medical savings accounts in the small group market on—

- (1) selection, including adverse selection,
- (2) health costs, including any impact on premiums of individuals with comprehensive coverage,
- (3) use of preventive care,
- (4) consumer choice,
- (5) the scope of coverage of high deductible plans purchased in conjunction with such accounts, and
- (6) other relevant items.

A report on the results of the study conducted under this subsection shall be submitted to the Congress no later than January 1, 1999.

Reports.

## Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

### SEC. 311. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—

“(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

“For taxable years beginning in calendar year—	The applicable percentage is—
1997 .....	40 percent
1998 through 2002 .....	45 percent
2003 .....	50 percent
2004 .....	60 percent
2005 .....	70 percent
2006 or thereafter .....	80 percent.”.

(b) EXCLUSION FOR AMOUNTS RECEIVED UNDER CERTAIN SELF-INSURED PLANS.—Paragraph (3) of section 104(a) is amended by inserting “(or through an arrangement having the effect of accident or health insurance)” after “health insurance”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

26 USC 104 note.



## Subtitle C—Long-Term Care Services and Contracts

### PART I—GENERAL PROVISIONS

#### SEC. 321. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

#### “SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

“(a) IN GENERAL.—For purposes of this title—

“(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

“(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

“(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

“(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

“(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

“(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

“(1) IN GENERAL.—The term ‘qualified long-term care insurance contract’ means any insurance contract if—

“(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

“(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

“(C) such contract is guaranteed renewable,

“(D) such contract does not provide for a cash surrender value or other money that can be—

“(i) paid, assigned, or pledged as collateral for a loan, or

“(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

“(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

“(F) such contract meets the requirements of subsection (g).

“(2) SPECIAL RULES.—

“(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

“(B) SPECIAL RULES RELATING TO MEDICARE.—

“(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

“(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

“(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

“(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified long-term care services’ means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

“(A) are required by a chronically ill individual, and

“(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

“(2) CHRONICALLY ILL INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘chronically ill individual’ means any individual who has been certified by a licensed health care practitioner as—

“(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

“(ii) having a level of disability similar (as determined under regulations prescribed by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

“(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

“(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

- “(i) Eating.
- “(ii) Toileting.
- “(iii) Transferring.
- “(iv) Bathing.
- “(v) Dressing.
- “(vi) Continence.

A contract shall not be treated as a qualified long-term care insurance contract unless the determination of whether an individual is a chronically ill individual takes into account at least 5 of such activities.

“(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term ‘maintenance or personal care services’ means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

“(4) LICENSED HEALTH CARE PRACTITIONER.—The term ‘licensed health care practitioner’ means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

“(d) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

“(1) IN GENERAL.—If the aggregate of—

“(A) the periodic payments received for any period under all qualified long-term care insurance contracts which are treated as made for qualified long-term care services for an insured, and

“(B) the periodic payments received for such period which are treated under section 101(g) as paid by reason of the death of such insured,

exceeds the per diem limitation for such period, such excess shall be includible in gross income without regard to section 72. A payment shall not be taken into account under subparagraph (B) if the insured is a terminally ill individual (as defined in section 101(g)) at the time the payment is received.

“(2) PER DIEM LIMITATION.—For purposes of paragraph (1), the per diem limitation for any period is an amount equal to the excess (if any) of—

“(A) the greater of—

“(i) the dollar amount in effect for such period under paragraph (4), or

“(ii) the costs incurred for qualified long-term care services provided for the insured for such period, over

“(B) the aggregate payments received as reimbursements (through insurance or otherwise) for qualified long-term care services provided for the insured during such period.

“(3) AGGREGATION RULES.—For purposes of this subsection—

“(A) all persons receiving periodic payments described in paragraph (1) with respect to the same insured shall be treated as 1 person, and

“(B) the per diem limitation determined under paragraph (2) shall be allocated first to the insured and any remaining limitation shall be allocated among the other

such persons in such manner as the Secretary shall prescribe.

“(4) DOLLAR AMOUNT.—The dollar amount in effect under this subsection shall be \$175 per day (or the equivalent amount in the case of payments on another periodic basis).

“(5) INFLATION ADJUSTMENT.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (4) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

“(6) PERIODIC PAYMENTS.—For purposes of this subsection, the term ‘periodic payment’ means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

“(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract—

“(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

“(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

“(A) by the sum of any charges (but not premium payments) against the life insurance contract’s cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

“(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

“(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract’s cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

“(4) PORTION DEFINED.—For purposes of this subsection, the term ‘portion’ means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to long-term care insurance coverage.

“(f) TREATMENT OF CERTAIN STATE-MAINTAINED PLANS.—

“(1) IN GENERAL.—If—

“(A) an individual receives coverage for qualified long-term care services under a State long-term care plan, and

“(B) the terms of such plan would satisfy the requirements of subsection (b) were such plan an insurance contract,

such plan shall be treated as a qualified long-term care insurance contract for purposes of this title.

“(2) STATE LONG-TERM CARE PLAN.—For purposes of paragraph (1), the term ‘State long-term care plan’ means any plan—

“(A) which is established and maintained by a State or an instrumentality of a State,

“(B) which provides coverage only for qualified long-term care services, and

“(C) under which such coverage is provided only to—

“(i) employees and former employees of a State (or any political subdivision or instrumentality of a State),

“(ii) the spouses of such employees, and

“(iii) individuals bearing a relationship to such employees or spouses which is described in any of paragraphs (1) through (8) of section 152(a).”

(b) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting “(other than a qualified long-term care insurance contract, as defined in section 7702B(b))” after “insurance contract”.

(c) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: “Such term shall not include any product which is advertised, marketed, or offered as long-term care insurance.”

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans), as amended by section 301(c), is amended by adding at the end the following new subsection:

“(c) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

“(1) IN GENERAL.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

“(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

“(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

“(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage. In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.”

(d) CONTINUATION COVERAGE RULES NOT TO APPLY.—

(1) Paragraph (2) of section 4980B(g) is amended by adding at the end the following new sentence: “Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c)).”

(2) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: “Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of such Code).”

(3) Paragraph (1) of section 2208 of the Public Health Service Act is amended by adding at the end the following new sentence: "Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of such Code)."

42 USC 300bb-8.

(e) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance."

(f) EFFECTIVE DATES.—

26 USC 1702B  
note.

(1) GENERAL EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall apply to contracts issued after December 31, 1996.

(B) RESERVE METHOD.—The amendment made by subsection (b) shall apply to contracts issued after December 31, 1997.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was situated at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

In the case of an individual who is covered on December 31, 1996, under a State long-term care plan (as defined in section 7702B(f)(2) of such Code), the terms of such plan on such date shall be treated for purposes of the preceding sentence as a contract issued on such date which met the long-term care insurance requirements of such State.

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated, shall not be treated as a modification or material change of such contract.

(5) APPLICATION OF PER DIEM LIMITATION TO EXISTING CONTRACTS.—The amount of per diem payments made under a contract issued on or before July 31, 1996, with respect to an insured which are excludable from gross income by reason of section 7702B of the Internal Revenue Code of 1986 (as added by this section) shall not be reduced under subsection (d)(2)(B) thereof by reason of reimbursements received under a contract issued on or before such date. The preceding sentence shall cease to apply as of the date (after July 31, 1996) such contract is exchanged or there is any contract modification which results in an increase in the amount of such per diem payments or the amount of such reimbursements.

26 USC 7702B  
note.

Reports.

(g) LONG-TERM CARE STUDY REQUEST.—The Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate shall jointly request the National Association of Insurance Commissioners, in consultation with representatives of the insurance industry and consumer organizations, to formulate, develop, and conduct a study to determine the marketing and other effects of per diem limits on certain types of long-term care policies. If the National Association of Insurance Commissioners agrees to the study request, the National Association of Insurance Commissioners shall report the results of its study to such committees not later than 2 years after accepting the request.

#### SEC. 322. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking “or” at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

“(C) for qualified long-term care services (as defined in section 7702B(c)), or”.

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by inserting before the period “or for any qualified long-term care insurance contract (as defined in section 7702B(b))”.

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

“In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D).”

(B) Paragraph (2) of section 162(l) is amended by adding at the end the following new subparagraph:

“(C) LONG-TERM CARE PREMIUMS.—In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under paragraph (1).”

(C) Subsection (d) of section 213 is amended by adding at the end the following new paragraphs:

“(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

“(A) IN GENERAL.—For purposes of this section, the term ‘eligible long-term care premiums’ means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

“In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less .....	\$ 200
More than 40 but not more than 50 .....	375
More than 50 but not more than 60 .....	750
More than 60 but not more than 70 .....	2,000
More than 70 .....	2,500

“(B) INDEXING.—

“(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of \$10, such increase shall be rounded to the nearest multiple of \$10.

“(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

“(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

“(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

“(11) CERTAIN PAYMENTS TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

“(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

“(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term ‘relative’ means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a).



This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance.”.

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking “subparagraphs (A) and (B)” and inserting “subparagraphs (A), (B), and (C)”, and

(B) by striking “paragraph (1)(C)” in subparagraph (A) and inserting “paragraph (1)(D)”.

(4) Paragraph (7) of section 213(d) is amended by striking “subparagraphs (A) and (B)” and inserting “subparagraphs (A), (B), and (C)”.

26 USC 162 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

#### **SEC. 323. REPORTING REQUIREMENTS.**

(a) **IN GENERAL.**—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

##### **“SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.**

“(a) **REQUIREMENT OF REPORTING.**—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

“(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year,

“(2) whether or not such benefits are paid in whole or in part on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate,

“(3) the name, address, and TIN of such individual, and

“(4) the name, address, and TIN of the chronically ill or terminally ill individual on account of whose condition such benefits are paid.

“(b) **STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.**—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

“(1) the name of the person making the payments, and

“(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

“(c) **LONG-TERM CARE BENEFITS.**—For purposes of this section, the term ‘long-term care benefit’ means—

“(1) any payment under a product which is advertised, marketed, or offered as long-term care insurance, and

“(2) any payment which is excludable from gross income by reason of section 101(g).”.

(b) **PENALTIES.**—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

“(ix) section 6050Q (relating to certain long-term care benefits),”.

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

“(Q) section 6050Q(b) (relating to certain long-term care benefits).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

“Sec. 6050Q. Certain long-term care benefits.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

26 USC 6050Q  
note.

## PART II—CONSUMER PROTECTION PROVISIONS

### SEC. 325. POLICY REQUIREMENTS.

Section 7702B (as added by section 321) is amended by adding at the end the following new subsection:

“(g) CONSUMER PROTECTION PROVISIONS.—

“(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if the contract meets—

“(A) the requirements of the model regulation and model Act described in paragraph (2),

“(B) the disclosure requirement of paragraph (3), and

“(C) the requirements relating to nonforfeitability under paragraph (4).

“(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

“(A) IN GENERAL.—The requirements of this paragraph are met with respect to any contract if such contract meets—

“(i) MODEL REGULATION.—The following requirements of the model regulation:

“(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

“(II) Section 7B (relating to prohibitions on limitations and exclusions).

“(III) Section 7C (relating to extension of benefits).

“(IV) Section 7D (relating to continuation or conversion of coverage).

“(V) Section 7E (relating to discontinuance and replacement of policies).

“(VI) Section 8 (relating to unintentional lapse).

“(VII) Section 9 (relating to disclosure), other than section 9F thereof.

“(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

“(IX) Section 11 (relating to minimum standards).

“(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation

protection shall permit the signature to be on an application or on a separate form.

“(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

“(ii) MODEL ACT.—The following requirements of the model Act:

“(I) Section 6C (relating to preexisting conditions).

“(II) Section 6D (relating to prior hospitalization).

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) MODEL PROVISIONS.—The terms ‘model regulation’ and ‘model Act’ mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

“(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

“(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.

“(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any contract if such contract meets the requirements of section 4980C(d).

“(4) NONFORFEITURE REQUIREMENTS.—

“(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium contract, if the issuer of such contract offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

“(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

“(i) The nonforfeiture provision shall be appropriately captioned.

“(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the Secretary for the same contract form.

“(iii) The nonforfeiture provision shall provide at least one of the following:

“(I) Reduced paid-up insurance.

“(II) Extended term insurance.

“(III) Shortened benefit period.

“(IV) Other similar offerings approved by the Secretary.

“(5) CROSS REFERENCE.—

“For coordination of the requirements of this subsection with State requirements, see section 4980C(f).”.

**SEC. 326. REQUIREMENTS FOR ISSUERS OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.**

(a) **IN GENERAL.**—Chapter 43 is amended by adding at the end the following new section:

**“SEC. 4980C. REQUIREMENTS FOR ISSUERS OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.**

“(a) **GENERAL RULE.**—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

“(b) **AMOUNT.**—

“(1) **IN GENERAL.**—The amount of the tax imposed by subsection (a) shall be \$100 per insured for each day any requirement of subsection (c) or (d) is not met with respect to each qualified long-term care insurance contract.

“(2) **WAIVER.**—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

“(c) **RESPONSIBILITIES.**—The requirements of this subsection are as follows:

“(1) **REQUIREMENTS OF MODEL PROVISIONS.**—

“(A) **MODEL REGULATION.**—The following requirements of the model regulation must be met:

“(i) Section 13 (relating to application forms and replacement coverage).

“(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

“(iii) Section 20 (relating to filing requirements for marketing).

“(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

“(I) in addition to such requirements, no person shall, in selling or offering to sell a qualified long-term care insurance contract, misrepresent a material fact; and

“(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

“(v) Section 22 (relating to appropriateness of recommended purchase).

“(vi) Section 24 (relating to standard format outline of coverage).

“(vii) Section 25 (relating to requirement to deliver shopper’s guide).

“(B) MODEL ACT.—The following requirements of the model Act must be met:

“(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

“(ii) Section 6G (relating to outline of coverage).

“(iii) Section 6H (relating to requirements for certificates under group plans).

“(iv) Section 6I (relating to policy summary).

“(v) Section 6J (relating to monthly reports on accelerated death benefits).

“(vi) Section 7 (relating to incontestability period).

“(C) DEFINITIONS.—For purposes of this paragraph, the terms ‘model regulation’ and ‘model Act’ have the meanings given such terms by section 7702B(g)(2)(B).

“(2) DELIVERY OF POLICY.—If an application for a qualified long-term care insurance contract (or for a certificate under such a contract for a group) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the contract (or certificate) of insurance not later than 30 days after the date of the approval.

“(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a qualified long-term care insurance contract is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

“(A) provide a written explanation of the reasons for the denial, and

“(B) make available all information directly relating to such denial.

“(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

“(e) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT DEFINED.—For purposes of this section, the term ‘qualified long-term care insurance contract’ has the meaning given such term by section 7702B.

“(f) COORDINATION WITH STATE REQUIREMENTS.—If a State imposes any requirement which is more stringent than the analogous requirement imposed by this section or section 7702B(g), the requirement imposed by this section or section 7702B(g) shall be treated as met if the more stringent State requirement is met.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

“Sec. 4980C. Requirements for issuers of qualified long-term care insurance contracts.”

26 USC 4980C  
note.

#### SEC. 327. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1996. The provisions of section 321(f) (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 326 shall apply to actions taken after December 31, 1996.

## Subtitle D—Treatment of Accelerated Death Benefits

### SEC. 331. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

“(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—  
“(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

“(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

“(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual.

“(2) TREATMENT OF VIATICAL SETTLEMENTS.—

“(A) IN GENERAL.—If any portion of the death benefit under a life insurance contract on the life of an insured described in paragraph (1) is sold or assigned to a viatical settlement provider, the amount paid for the sale or assignment of such portion shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

“(B) VIATICAL SETTLEMENT PROVIDER.—

“(i) IN GENERAL.—The term ‘viatical settlement provider’ means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

“(I) such person is licensed for such purposes (with respect to insureds described in the same subparagraph of paragraph (1) as the insured) in the State in which the insured resides, or

“(II) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes with respect to such insured, such person meets the requirements of clause (ii) or (iii), whichever applies to such insured.

“(ii) TERMINALLY ILL INSURED.—A person meets the requirements of this clause with respect to an insured who is a terminally ill individual if such person—

“(I) meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

“(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining

amounts paid by such person in connection with such purchases or assignments.

“(iii) CHRONICALLY ILL INSURED.—A person meets the requirements of this clause with respect to an insured who is a chronically ill individual if such person—

“(I) meets requirements similar to the requirements referred to in clause (ii)(I), and

“(II) meets the standards (if any) of the National Association of Insurance Commissioners for evaluating the reasonableness of amounts paid by such person in connection with such purchases or assignments with respect to chronically ill individuals.

“(3) SPECIAL RULES FOR CHRONICALLY ILL INSURED.—In the case of an insured who is a chronically ill individual—

“(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to any payment received for any period unless—

“(i) such payment is for costs incurred by the payee (not compensated for by insurance or otherwise) for qualified long-term care services provided for the insured for such period, and

“(ii) the terms of the contract giving rise to such payment satisfy—

“(I) the requirements of section 7702B(b)(1)(B), and

“(II) the requirements (if any) applicable under subparagraph (B).

For purposes of the preceding sentence, the rule of section 7702B(b)(2)(B) shall apply.

“(B) OTHER REQUIREMENTS.—The requirements applicable under this subparagraph are—

“(i) those requirements of section 7702B(g) and section 4980C which the Secretary specifies as applying to such a purchase, assignment, or other arrangement,

“(ii) standards adopted by the National Association of Insurance Commissioners which specifically apply to chronically ill individuals (and, if such standards are adopted, the analogous requirements specified under clause (i) shall cease to apply), and

“(iii) standards adopted by the State in which the policyholder resides (and if such standards are adopted, the analogous requirements specified under clause (i) and (subject to section 4980C(f)) standards under clause (ii), shall cease to apply).

“(C) PER DIEM PAYMENTS.—A payment shall not fail to be described in subparagraph (A) by reason of being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payment relates.

“(D) LIMITATION ON EXCLUSION FOR PERIODIC PAYMENTS.—

“For limitation on amount of periodic payments which are treated as described in paragraph (1), see section 7702B(d).”.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) TERMINALLY ILL INDIVIDUAL.—The term ‘terminally ill individual’ means an individual who has been

certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

“(B) CHRONICALLY ILL INDIVIDUAL.—The term ‘chronically ill individual’ has the meaning given such term by section 7702B(c)(2); except that such term shall not include a terminally ill individual.

“(C) QUALIFIED LONG-TERM CARE SERVICES.—The term ‘qualified long-term care services’ has the meaning given such term by section 7702B(c).

“(D) PHYSICIAN.—The term ‘physician’ has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

“(5) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996. 26 USC 101 note.

#### SEC. 332. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

“(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

“(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

“(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term ‘qualified accelerated death benefit rider’ means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

“(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract. 26 USC 818 note.



## Subtitle E—State Insurance Pools

### SEC. 341. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

“(26) Any membership organization if—

“(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

“(i) insurance issued by the organization, or

“(ii) a health maintenance organization under an arrangement with the organization,

“(B) the only individuals receiving such coverage through the organization are individuals—

“(i) who are residents of such State, and

“(ii) who, by reason of the existence or history of a medical condition—

“(I) are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization, or

“(II) are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

“(C) the composition of the membership in such organization is specified by such State, and

“(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.”

26 USC 501 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

### SEC. 342. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED WORKMEN'S COMPENSATION REINSURANCE ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations), as amended by section 341, is amended by adding at the end the following new paragraph:

“(27) Any membership organization if—

“(A) such organization is established before June 1, 1996, by a State exclusively to reimburse its members for losses arising under workmen's compensation acts,

“(B) such State requires that the membership of such organization consist of—

“(i) all persons who issue insurance covering workmen's compensation losses in such State, and

“(ii) all persons and governmental entities who self-insure against such losses, and

“(C) such organization operates as a non-profit organization by—

“(i) returning surplus income to its members or workmen’s compensation policyholders on a periodic basis, and

“(ii) reducing initial premiums in anticipation of investment income.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 501 note.

## **Subtitle F—Organizations Subject to Section 833**

### **SEC. 351. ORGANIZATIONS SUBJECT TO SECTION 833.**

(a) **IN GENERAL.**—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

“(4) **TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.**—

“(A) **IN GENERAL.**—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

“(B) **APPLICABLE ORGANIZATION.**—An organization is described in this subparagraph if it—

“(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

“(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending after December 31, 1996. 26 USC 833 note.

## **Subtitle G—IRA Distributions to the Unemployed**

### **SEC. 361. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT ADDITIONAL TAX TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.**

(a) **IN GENERAL.**—Section 72(t)(3)(A) is amended by striking “(B),”.

(b) **DISTRIBUTIONS FOR PAYMENT OF HEALTH INSURANCE PREMIUMS OF CERTAIN UNEMPLOYED INDIVIDUALS.**—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

“(D) **DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS FOR HEALTH INSURANCE PREMIUMS.**—

“(i) **IN GENERAL.**—Distributions from an individual retirement plan to an individual after separation from employment—

“(I) if such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation,

“(II) if such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year, and

“(III) to the extent such distributions do not exceed the amount paid during the taxable year for insurance described in section 213(d)(1)(D) with respect to the individual and the individual’s spouse and dependents (as defined in section 152).

“(ii) DISTRIBUTIONS AFTER REEMPLOYMENT.—Clause (i) shall not apply to any distribution made after the individual has been employed for at least 60 days after the separation from employment to which clause (i) applies.

“(iii) SELF-EMPLOYED INDIVIDUALS.—To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i)(I) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.”

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking “or (C)” and inserting “, (C), or (D)”.

26 USC 72 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1996.

## Subtitle H—Organ and Tissue Donation Information Included With Income Tax Refund Payments

26 USC 6042  
note.

### SEC. 371. ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall, to the extent practicable, include with the mailing of any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

- (1) encourages organ and tissue donation;
- (2) includes a detachable organ and tissue donor card; and
- (3) urges recipients to—
  - (A) sign the organ and tissue donor card;
  - (B) discuss organ and tissue donation with family members and tell family members about the recipient’s desire to be an organ and tissue donor if the occasion arises; and
  - (C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

## **TITLE IV—APPLICATION AND ENFORCEMENT OF GROUP HEALTH PLAN REQUIREMENTS**

### **Subtitle A—Application and Enforcement of Group Health Plan Requirements**

#### **SEC. 401. GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS.**

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

#### **“Subtitle K—Group Health Plan Portability, Access, and Renewability Requirements**

“Chapter 100. Group health plan portability, access, and renewability requirements.

##### **“CHAPTER 100—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS**

“Sec. 9801. Increased portability through limitation on preexisting condition exclusions.

“Sec. 9802. Prohibiting discrimination against individual participants and beneficiaries based on health status.

“Sec. 9803. Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements.

“Sec. 9804. General exceptions.

“Sec. 9805. Definitions.

“Sec. 9806. Regulations.

##### **“SEC. 9801. INCREASED PORTABILITY THROUGH LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.**

“(a) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD; CREDITING FOR PERIODS OF PREVIOUS COVERAGE.—Subject to subsection (d), a group health plan may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

“(1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

“(2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

“(3) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

“(b) DEFINITIONS.—For purposes of this section—

“(1) PREEXISTING CONDITION EXCLUSION.—

“(A) IN GENERAL.—The term ‘preexisting condition exclusion’ means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on

the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

“(B) TREATMENT OF GENETIC INFORMATION.—For purposes of this section, genetic information shall not be treated as a condition described in subsection (a)(1) in the absence of a diagnosis of the condition related to such information.

“(2) ENROLLMENT DATE.—The term ‘enrollment date’ means, with respect to an individual covered under a group health plan, the date of enrollment of the individual in the plan or, if earlier, the first day of the waiting period for such enrollment.

“(3) LATE ENROLLEE.—The term ‘late enrollee’ means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

“(A) the first period in which the individual is eligible to enroll under the plan, or

“(B) a special enrollment period under subsection (f).

“(4) WAITING PERIOD.—The term ‘waiting period’ means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

“(c) RULES RELATING TO CREDITING PREVIOUS COVERAGE.—

“(1) CREDITABLE COVERAGE DEFINED.—For purposes of this part, the term ‘creditable coverage’ means, with respect to an individual, coverage of the individual under any of the following:

“(A) A group health plan.

“(B) Health insurance coverage.

“(C) Part A or part B of title XVIII of the Social Security Act.

“(D) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

“(E) Chapter 55 of title 10, United States Code.

“(F) A medical care program of the Indian Health Service or of a tribal organization.

“(G) A State health benefits risk pool.

“(H) A health plan offered under chapter 89 of title 5, United States Code.

“(I) A public health plan (as defined in regulations).

“(J) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 9805(c)).

“(2) NOT COUNTING PERIODS BEFORE SIGNIFICANT BREAKS IN COVERAGE.—

“(A) IN GENERAL.—A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

“(B) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraph (A) and subsection (d)(4), any period that an individual is in a waiting period for any coverage under a group health plan or is in an affiliation period shall not be taken into account in determining the continuous period under subparagraph (A).

“(C) AFFILIATION PERIOD.—

“(i) IN GENERAL.—For purposes of this section, the term ‘affiliation period’ means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. During such an affiliation period, the organization is not required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

“(ii) BEGINNING.—Such period shall begin on the enrollment date.

“(iii) RUNS CONCURRENTLY WITH WAITING PERIODS.—Any such affiliation period shall run concurrently with any waiting period under the plan.

“(3) METHOD OF CREDITING COVERAGE.—

“(A) STANDARD METHOD.—Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3), a group health plan shall count a period of creditable coverage without regard to the specific benefits for which coverage is offered during the period.

“(B) ELECTION OF ALTERNATIVE METHOD.—A group health plan may elect to apply subsection (a)(3) based on coverage of any benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

“(C) PLAN NOTICE.—In the case of an election with respect to a group health plan under subparagraph (B), the plan shall—

“(i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and

“(ii) include in such statements a description of the effect of this election.

“(4) ESTABLISHMENT OF PERIOD.—Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (e) or in such other manner as may be specified in regulations.

“(d) EXCEPTIONS.—

“(1) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS.—Subject to paragraph (4), a group health plan may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

“(2) EXCLUSION NOT APPLICABLE TO CERTAIN ADOPTED CHILDREN.—Subject to paragraph (4), a group health plan may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

“(3) EXCLUSION NOT APPLICABLE TO PREGNANCY.—For purposes of this section, a group health plan may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

“(4) LOSS IF BREAK IN COVERAGE.—Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

“(e) CERTIFICATIONS AND DISCLOSURE OF COVERAGE.—

“(1) REQUIREMENT FOR CERTIFICATION OF PERIOD OF CREDITABLE COVERAGE.—

“(A) IN GENERAL.—A group health plan shall provide the certification described in subparagraph (B)—

“(i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,

“(ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and

“(iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

“(B) CERTIFICATION.—The certification described in this subparagraph is a written certification of—

“(i) the period of creditable coverage of the individual under such plan and the coverage under such COBRA continuation provision, and

“(ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

“(C) ISSUER COMPLIANCE.—To the extent that medical care under a group health plan consists of health insurance coverage offered in connection with the plan, the plan is deemed to have satisfied the certification requirement under this paragraph if the issuer provides for such certification in accordance with this paragraph.

“(2) DISCLOSURE OF INFORMATION ON PREVIOUS BENEFITS.—

“(A) IN GENERAL.—In the case of an election described in subsection (c)(3)(B) by a group health plan, if the plan enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

“(i) upon request of such plan, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan information on coverage of classes and categories of health benefits available under such entity’s plan, and

“(ii) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

“(3) REGULATIONS.—The Secretary shall establish rules to prevent an entity’s failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

“(f) SPECIAL ENROLLMENT PERIODS.—

“(1) INDIVIDUALS LOSING OTHER COVERAGE.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

“(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or individual.

“(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor (or the health insurance issuer offering health insurance coverage in connection with the plan) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

“(C) The employee’s or dependent’s coverage described in subparagraph (A)—

“(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

“(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment) or employer contributions toward such coverage were terminated.

“(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

“(2) FOR DEPENDENT BENEFICIARIES.—

“(A) IN GENERAL.—If—

“(i) a group health plan makes coverage available with respect to a dependent of an individual,

“(ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming



a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period), and

“(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

“(B) DEPENDENT SPECIAL ENROLLMENT PERIOD.—The dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

“(i) the date dependent coverage is made available, or

“(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

“(C) NO WAITING PERIOD.—If an individual seeks coverage of a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

“(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

“(ii) in the case of a dependent’s birth, as of the date of such birth; or

“(iii) in the case of a dependent’s adoption or placement for adoption, the date of such adoption or placement for adoption.

**“SEC. 9802. PROHIBITING DISCRIMINATION AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS.**

“(a) IN ELIGIBILITY TO ENROLL.—

“(1) IN GENERAL.—Subject to paragraph (2), a group health plan may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following factors in relation to the individual or a dependent of the individual:

“(A) Health status.

“(B) Medical condition (including both physical and mental illnesses).

“(C) Claims experience.

“(D) Receipt of health care.

“(E) Medical history.

“(F) Genetic information.

“(G) Evidence of insurability (including conditions arising out of acts of domestic violence).

“(H) Disability.

“(2) NO APPLICATION TO BENEFITS OR EXCLUSIONS.—To the extent consistent with section 9801, paragraph (1) shall not be construed—

“(A) to require a group health plan to provide particular benefits (or benefits with respect to a specific procedure, treatment, or service) other than those provided under the terms of such plan; or

“(B) to prevent such a plan from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

“(3) CONSTRUCTION.—For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

“(b) IN PREMIUM CONTRIBUTIONS.—

“(1) IN GENERAL.—A group health plan may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any factor described in subsection (a)(1) in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

“(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

“(A) to restrict the amount that an employer may be charged for coverage under a group health plan; or

“(B) to prevent a group health plan from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

**“SEC. 9803. GUARANTEED RENEWABILITY IN MULTIEMPLOYER PLANS AND CERTAIN MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.**

“(a) IN GENERAL.—A group health plan which is a multiemployer plan (as defined in section 414(f)) or which is a multiple employer welfare arrangement may not deny an employer continued access to the same or different coverage under such plan, other than—

“(1) for nonpayment of contributions;

“(2) for fraud or other intentional misrepresentation of material fact by the employer;

“(3) for noncompliance with material plan provisions;

“(4) because the plan is ceasing to offer any coverage in a geographic area;

“(5) in the case of a plan that offers benefits through a network plan, because there is no longer any individual enrolled through the employer who lives, resides, or works in the service area of the network plan and the plan applies this paragraph uniformly without regard to the claims experience of employers or a factor described in section 9802(a)(1) in relation to such individuals or their dependents; or

“(6) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other

agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement.

“(b) **MULTIPLE EMPLOYER WELFARE ARRANGEMENT.**—For purposes of subsection (a), the term ‘multiple employer welfare arrangement’ has the meaning given such term by section 3(40) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section.

**“SEC. 9804. GENERAL EXCEPTIONS.**

“(a) **EXCEPTION FOR CERTAIN PLANS.**—The requirements of this chapter shall not apply to—

“(1) any governmental plan, and

“(2) any group health plan for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

“(b) **EXCEPTION FOR CERTAIN BENEFITS.**—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(1).

“(c) **EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.**—

“(1) **LIMITED, EXCEPTED BENEFITS.**—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(2) if the benefits—

“(A) are provided under a separate policy, certificate, or contract of insurance; or

“(B) are otherwise not an integral part of the plan.

“(2) **NONCOORDINATED, EXCEPTED BENEFITS.**—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(3) if all of the following conditions are met:

“(A) The benefits are provided under a separate policy, certificate, or contract of insurance.

“(B) There is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor.

“(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

“(3) **SUPPLEMENTAL EXCEPTED BENEFITS.**—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(4) if the benefits are provided under a separate policy, certificate, or contract of insurance.

**“SEC. 9805. DEFINITIONS.**

“(a) **GROUP HEALTH PLAN.**—For purposes of this chapter, the term ‘group health plan’ has the meaning given to such term by section 5000(b)(1).

“(b) **DEFINITIONS RELATING TO HEALTH INSURANCE.**—For purposes of this chapter—

“(1) **HEALTH INSURANCE COVERAGE.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘health insurance coverage’ means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical

service plan contract, or health maintenance organization contract offered by a health insurance issuer.

“(B) NO APPLICATION TO CERTAIN EXCEPTED BENEFITS.—In applying subparagraph (A), excepted benefits described in subsection (c)(1) shall not be treated as benefits consisting of medical care.

“(2) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section). Such term does not include a group health plan.

“(3) HEALTH MAINTENANCE ORGANIZATION.—The term ‘health maintenance organization’ means—

“(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

“(B) an organization recognized under State law as a health maintenance organization, or

“(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

“(c) EXCEPTED BENEFITS.—For purposes of this chapter, the term ‘excepted benefits’ means benefits under one or more (or any combination thereof) of the following:

“(1) BENEFITS NOT SUBJECT TO REQUIREMENTS.—

“(A) Coverage only for accident, or disability income insurance, or any combination thereof.

“(B) Coverage issued as a supplement to liability insurance.

“(C) Liability insurance, including general liability insurance and automobile liability insurance.

“(D) Workers’ compensation or similar insurance.

“(E) Automobile medical payment insurance.

“(F) Credit-only insurance.

“(G) Coverage for on-site medical clinics.

“(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

“(2) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED SEPARATELY.—

“(A) Limited scope dental or vision benefits.

“(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

“(C) Such other similar, limited benefits as are specified in regulations.

“(3) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS INDEPENDENT, NONCOORDINATED BENEFITS.—

“(A) Coverage only for a specified disease or illness.

“(B) Hospital indemnity or other fixed indemnity insurance.

“(4) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS SEPARATE INSURANCE POLICY.—Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan.

“(d) OTHER DEFINITIONS.—For purposes of this chapter—

“(1) COBRA CONTINUATION PROVISION.—The term ‘COBRA continuation provision’ means any of the following:

“(A) Section 4980B, other than subsection (f)(1) thereof insofar as it relates to pediatric vaccines.

“(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), other than section 609 of such Act.

“(C) Title XXII of the Public Health Service Act.

“(2) GOVERNMENTAL PLAN.—The term ‘governmental plan’ has the meaning given such term by section 414(d).

“(3) MEDICAL CARE.—The term ‘medical care’ has the meaning given such term by section 213(d) determined without regard to—

“(A) paragraph (1)(C) thereof, and

“(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance.

“(4) NETWORK PLAN.—The term ‘network plan’ means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care are provided, in whole or in part, through a defined set of providers under contract with the issuer.

“(5) PLACED FOR ADOPTION DEFINED.—The term ‘placement’, or being ‘placed’, for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child’s placement with such person terminates upon the termination of such legal obligation.

#### “SEC. 9806. REGULATIONS.

“The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this chapter. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this chapter.”

(b) CLERICAL AMENDMENT.—The table of subtitles of such Code is amended by adding at the end the following new item:

“Subtitle K. Group health plan portability, access, and renewability requirements.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after June 30, 1997.

(2) DETERMINATION OF CREDITABLE COVERAGE.—

(A) PERIOD OF COVERAGE.—

(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under chapter 100 of the Internal Revenue Code of 1986 (as added by this section) in determining creditable coverage.

(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of the Treasury, consistent with section 104, shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

(B) CERTIFICATIONS, ETC.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 9801 of the Internal Revenue Code of 1986 (as added by this section) shall apply to events occurring after June 30, 1996.

(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification required to be provided under such subsection before June 1, 1997.

(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2), in the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(4) **TIMELY REGULATIONS.**—The Secretary of the Treasury, consistent with section 104, shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section.

(5) **LIMITATION ON ACTIONS.**—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.

**SEC. 402. PENALTY ON FAILURE TO MEET CERTAIN GROUP HEALTH PLAN REQUIREMENTS.**

(a) **IN GENERAL.**—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding after section 4980C the following new section:

**“SEC. 4980D. FAILURE TO MEET CERTAIN GROUP HEALTH PLAN REQUIREMENTS.**

“(a) **GENERAL RULE.**—There is hereby imposed a tax on any failure of a group health plan to meet the requirements of chapter 100 (relating to group health plan portability, access, and renewability requirements).

“(b) **AMOUNT OF TAX.**—

“(1) **IN GENERAL.**—The amount of the tax imposed by subsection (a) on any failure shall be \$100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

“(2) **NONCOMPLIANCE PERIOD.**—For purposes of this section, the term ‘noncompliance period’ means, with respect to any failure, the period—

“(A) beginning on the date such failure first occurs, and

“(B) ending on the date such failure is corrected.

“(3) **MINIMUM TAX FOR NONCOMPLIANCE PERIOD WHERE FAILURE DISCOVERED AFTER NOTICE OF EXAMINATION.**—Notwithstanding paragraphs (1) and (2) of subsection (c)—

“(A) **IN GENERAL.**—In the case of 1 or more failures with respect to an individual—

“(i) which are not corrected before the date a notice of examination of income tax liability is sent to the employer, and

“(ii) which occurred or continued during the period under examination,

the amount of tax imposed by subsection (a) by reason of such failures with respect to such individual shall not be less than the lesser of \$2,500 or the amount of tax which would be imposed by subsection (a) without regard to such paragraphs.

“(B) **HIGHER MINIMUM TAX WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.**—To the extent violations for which any person is liable under subsection (e) for any year are more than de minimis, subparagraph (A) shall be applied by substituting ‘\$15,000’ for ‘\$2,500’ with respect to such person.

“(C) EXCEPTION FOR CHURCH PLANS.—This paragraph shall not apply to any failure under a church plan (as defined in section 414(e)).

“(c) LIMITATIONS ON AMOUNT OF TAX.—

“(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such tax did not know, and exercising reasonable diligence would not have known, that such failure existed.

“(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No tax shall be imposed by subsection (a) on any failure if—

“(A) such failure was due to reasonable cause and not to willful neglect, and

“(B)(i) in the case of a plan other than a church plan (as defined in section 414(e)), such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such tax knew, or exercising reasonable diligence would have known, that such failure existed, and

“(ii) in the case of a church plan (as so defined), such failure is corrected before the close of the correction period (determined under the rules of section 414(e)(4)(C)).

“(3) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect—

“(A) SINGLE EMPLOYER PLANS.—

“(i) IN GENERAL.—In the case of failures with respect to plans other than specified multiple employer health plans, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

“(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

“(II) \$500,000.

“(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

“(B) SPECIFIED MULTIPLE EMPLOYER HEALTH PLANS.—

“(i) IN GENERAL.—In the case of failures with respect to a specified multiple employer health plan, the tax imposed by subsection (a) for failures during the taxable year of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

“(I) 10 percent of the amount paid or incurred by such trust during such taxable year to provide medical care (as defined in section 9805(d)(3))



directly or through insurance, reimbursement, or otherwise, or

“(II) \$500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as one plan.

“(ii) SPECIAL RULE FOR EMPLOYERS REQUIRED TO PAY TAX.—If an employer is assessed a tax imposed by subsection (a) by reason of a failure with respect to a specified multiple employer health plan, the limit shall be determined under subparagraph (A) (and not under this subparagraph) and as if such plan were not a specified multiple employer health plan.

“(4) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

“(d) TAX NOT TO APPLY TO CERTAIN INSURED SMALL EMPLOYER PLANS.—

“(1) IN GENERAL.—In the case of a group health plan of a small employer which provides health insurance coverage solely through a contract with a health insurance issuer, no tax shall be imposed by this section on the employer on any failure which is solely because of the health insurance coverage offered by such issuer.

“(2) SMALL EMPLOYER.—

“(A) IN GENERAL.—For purposes of paragraph (1), the term ‘small employer’ means, with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of the preceding sentence, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as one employer.

“(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

“(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

“(3) HEALTH INSURANCE COVERAGE; HEALTH INSURANCE ISSUER.—For purposes of paragraph (1), the terms ‘health insurance coverage’ and ‘health insurance issuer’ have the respective meanings given such terms by section 9805.

“(e) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a) on a failure:

“(1) Except as otherwise provided in this subsection, the employer.

“(2) In the case of a multiemployer plan, the plan.

“(3) In the case of a failure under section 9803 (relating to guaranteed renewability) with respect to a plan described in subsection (f)(2)(B), the plan.

“(f) DEFINITIONS.—For purposes of this section—

“(1) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term by section 9805(a).

“(2) SPECIFIED MULTIPLE EMPLOYER HEALTH PLAN.—The term ‘specified multiple employer health plan’ means a group health plan which is—

“(A) any multiemployer plan, or

“(B) any multiple employer welfare arrangement (as defined in section 3(40) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section).

“(3) CORRECTION.—A failure of a group health plan shall be treated as corrected if—

“(A) such failure is retroactively undone to the extent possible, and

“(B) the person to whom the failure relates is placed in a financial position which is as good as such person would have been in had such failure not occurred.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding after the item relating to section 4980C the following new item:

“Sec. 4980D. Failure to meet certain group health plan requirements.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures under chapter 100 of the Internal Revenue Code of 1986 (as added by section 401 of this Act). 26 USC 4980D note.

## Subtitle B—Clarification of Certain Continuation Coverage Requirements

### SEC. 421. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by striking “an individual” and inserting “a qualified beneficiary”;

(II) by striking “at the time of a qualifying event described in section 2203(2)” and inserting “at any time during the first 60 days of continuation coverage under this title”;

(III) by striking “with respect to such event,”; and

(IV) by inserting “(with respect to all qualified beneficiaries)” after “29 months”;

(B) in subparagraph (D)(i), by inserting before “, or” the following: “(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of the Internal Revenue Code

of 1986, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or title XXVII of this Act”); and

(C) in subparagraph (E), by striking “at the time of a qualifying event described in section 2203(2)” and inserting “at any time during the first 60 days of continuation coverage under this title”.

(2) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking “at the time of a qualifying event described in section 2203(2)” and inserting “at any time during the first 60 days of continuation coverage under this title”.

(3) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

“Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this title.”.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by striking “an individual” and inserting “a qualified beneficiary”;

(ii) by striking “at the time of a qualifying event described in section 603(2)” and inserting “at any time during the first 60 days of continuation coverage under this part”;

(iii) by striking “with respect to such event”; and

(iv) by inserting “(with respect to all qualified beneficiaries)” after “29 months”;

(B) in subparagraph (D)(i), by inserting before “, or” the following: “(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of the Internal Revenue Code of 1986, part 7 of this subtitle, or title XXVII of the Public Health Service Act)”; and

(C) in subparagraph (E), by striking “at the time of a qualifying event described in section 603(2)” and inserting “at any time during the first 60 days of continuation coverage under this part”.

(2) NOTICES.—Section 606(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(a)(3)) is amended by striking “at the time of a qualifying event described in section 603(2)” and inserting “at any time during the first 60 days of continuation coverage under this part”.

(3) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

“Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this part.”.

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i)—

(i) by striking “at the time of a qualifying event described in paragraph (3)(B)” and inserting “at any time during the first 60 days of continuation coverage under this section”;

(ii) by striking “with respect to such event”; and

(iii) by inserting “(with respect to all qualified beneficiaries)” after “29 months”;

(B) in clause (iv)(I), by inserting before “, or” the following: “(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of this title, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or title XXVII of the Public Health Service Act)”; and

(C) in clause (v), by striking “at the time of a qualifying event described in paragraph (3)(B)” and inserting “at any time during the first 60 days of continuation coverage under this section”.

(2) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking “at the time of a qualifying event described in paragraph (3)(B)” and inserting “at any time during the first 60 days of continuation coverage under this section”.

(3) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

“Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this section.”

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date.

(e) NOTIFICATION OF CHANGES.—Not later than November 1, 1996, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

26 USC 4980B  
note.

26 USC 4980B  
note.

## TITLE V—REVENUE OFFSETS

### SEC. 500. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## Subtitle A—Company-Owned Life Insurance

### SEC. 501. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED LIFE INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—  
(1) by inserting “, or any endowment or annuity contracts owned by the taxpayer covering any individual,” after “the life of any individual”, and  
(2) by striking all that follows “carried on by the taxpayer” and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking “Any” in subsection (a)(4) and inserting “Except as provided in subsection (d), any”, and

(2) by adding at the end the following new subsection:

“(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

“(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed \$50,000.

“(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—

“(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month beginning after December 31, 1995, to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

“(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody’s Corporate Bond Yield Average-Monthly Average Corporates as published by Moody’s Investors Service, Inc., or any successor thereto, for such month.

“(ii) PRE-1986 CONTRACTS.—In the case of indebtedness on a contract purchased on or before June 20, 1986—

“(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody’s rate described in clause (i) for the month in which the contract was purchased, or

“(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody’s rate for the third month preceding the first month in such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such

applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

“(3) **KEY PERSON.**—For purposes of paragraph (1), the term ‘key person’ means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

“(A) 5 individuals, or

“(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 20 individuals.

“(4) **20-PERCENT OWNER.**—For purposes of this subsection, the term ‘20-percent owner’ means—

“(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

“(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

“(5) **AGGREGATION RULES.**—

“(A) **IN GENERAL.**—For purposes of paragraph (4)(A) and applying the \$50,000 limitation in paragraph (1)—

“(i) all members of a controlled group shall be treated as one taxpayer, and

“(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

“(B) **CONTROLLED GROUP.**—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.”

(c) **EFFECTIVE DATES.**—

26 USC 264 note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to interest paid or accrued after October 13, 1995.

(2) **TRANSITION RULE FOR EXISTING INDEBTEDNESS.**—

(A) **IN GENERAL.**—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) **QUALIFIED INTEREST.**—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest (otherwise deductible) which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage of the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as 1 person. Subclause (II) of clause (ii) shall not apply to any month before January 1, 1996.

(C) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	The percentage is:
1996 .....	100 percent
1997 .....	90 percent
1998 .....	80 percent.

(3) **SPECIAL RULE FOR GRANDFATHERED CONTRACTS.**—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

26 USC 264 note.

(d) **SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.**—

(1) **IN GENERAL.**—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) **SPECIAL RULES FOR APPLYING SECTION 264.**—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by

reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

## **Subtitle B—Treatment of Individuals Who Lose United States Citizenship**

### **SEC. 511. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.**

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

“(a) TREATMENT OF EXPATRIATES.—

“(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

“(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

“(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than \$100,000, or

“(B) the net worth of the individual as of such date is \$500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such \$100,000 and \$500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘1994’ for ‘1992’ in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of \$1,000.”

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

“(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—



“(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

“(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

“(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary’s determination as to whether such loss has for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

“(2) INDIVIDUALS DESCRIBED.—

“(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

“(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

“(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

“(I) such individual was born,

“(II) if such individual is married, such individual’s spouse was born, or

“(III) either of such individual’s parents were born.

“(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

“(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual’s loss of United States citizenship occurs before such individual attains age 18½.

“(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary.”

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking “subsection (c)” and inserting “subsection (d)”.

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

“(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

“(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

“(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

“(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United

States, a State or political subdivision thereof, or the District of Columbia.

“(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

“(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

“(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

“(II) the total value of the stock of such corporation, and

“(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

“(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

“(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

“(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

“(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

“(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

“(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

“(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

“(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-

year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

“(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

“(i) the removal of appreciated tangible personal property from the United States, and

“(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States, shall be treated as an exchange to which this paragraph applies.

“(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—

For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

“(A) the holding of a put with respect to such property (or similar property),

“(B) the holding by another person of a right to acquire the property, or

“(C) a short sale or any other transaction.

“(4) TREATMENT OF PROPERTY CONTRIBUTED TO CONTROLLED FOREIGN CORPORATIONS.—

“(A) IN GENERAL.—If—

“(i) an individual losing United States citizenship contributes property to any corporation which, at the time of the contribution, is described in subparagraph (B), and

“(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), during the 10-year period referred to in subsection (a), any income or gain on such property (or any other property which has a basis determined in whole or part by reference to such property) received or accrued by the corporation shall be treated as received or accrued directly by such individual and not by such corporation. The preceding sentence shall not apply to the extent the property has been treated under subparagraph (C) as having been sold by such corporation.

“(B) CORPORATION DESCRIBED.—A corporation is described in this subparagraph with respect to an individual if, were such individual a United States citizen—

“(i) such corporation would be a controlled foreign corporation (as defined in 957), and

“(ii) such individual would be a United States shareholder (as defined in section 951(b)) with respect to such corporation.

“(C) DISPOSITION OF STOCK IN CORPORATION.—If stock in the corporation referred to in subparagraph (A) (or any other stock which has a basis determined in whole or part by reference to such stock) is disposed of during the 10-year period referred to in subsection (a) and while the

property referred to in subparagraph (A) is held by such corporation, a pro rata share of such property (determined on the basis of the value of such stock) shall be treated as sold by the corporation immediately before such disposition.

“(D) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the purposes of this paragraph, including where—

“(i) the property is sold to the corporation, and

“(ii) the property taken into account under subparagraph (A) is sold by the corporation.

“(E) INFORMATION REPORTING.—The Secretary shall require such information reporting as is necessary to carry out the purposes of this paragraph.”.

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: “The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section.”

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting “(after any reduction in such tax under the last sentence of such subsection)” after “such subsection”.

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

“(a) TREATMENT OF EXPATRIATES.—

“(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

“(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

“(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

“(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1).”.

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

“(2) CREDIT FOR FOREIGN DEATH TAXES.—

“(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inherit-

ance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

“(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

“(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

“(ii) such property’s proportionate share of the excess of—

“(I) the tax imposed by subsection (a), over

“(II) the tax which would be imposed by section 2101 but for this section.

“(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property’s proportionate share is the percentage of the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate.”.

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking “more than 50 percent of” and all that follows and inserting “more than 50 percent of—

“(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

“(B) the total value of the stock of such corporation.”.

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

“(3) EXCEPTION.—

“(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

“(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

“(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

“(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.”.

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

“(1) IN GENERAL.—Any long-term resident of the United States who—

“(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country, shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

“(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term ‘long-term resident’ means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

“(3) SPECIAL RULES.—

“(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

“(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

“(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

“(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1).”.

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and

by inserting after subsection (d) (as so redesignated) the following new subsection:

“(e) CROSS REFERENCE.—

“For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).”.

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

“(E) CROSS REFERENCE.—

“For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).”.

26 USC 877 note.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) RULING REQUESTS.—In no event shall the 1-year period referred to in section 877(c)(1)(B) of such Code, as amended by this section, expire before the date which is 90 days after the date of the enactment of this Act.

(3) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 512 shall apply to such individual except that the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

#### SEC. 512. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

#### “SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

“(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which

includes the information described in subsection (b). Such statement shall be—

“(1) provided not later than the earliest date of any act referred to in subsection (c), and

“(2) provided to the person or court referred to in subsection (c) with respect to such act.

“(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

“(1) the taxpayer’s TIN,

“(2) the mailing address of such individual’s principal foreign residence,

“(3) the foreign country in which such individual is residing,

“(4) the foreign country of which such individual is a citizen,

“(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

“(6) such other information as the Secretary may prescribe.

“(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

“(1) the individual’s renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(2) the individual’s furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

“(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

“(4) the cancellation by a court of the United States of a naturalized citizen’s certificate of naturalization.

“(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

“(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

“(2) \$1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

“(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

“(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

“(A) a copy of any such statement, and

“(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

“(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and



“(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

“(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

“(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

“Sec. 6039F. Information on individuals losing United States citizenship.”.

26 USC 6039F  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

#### SEC. 513. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

## Subtitle C—Repeal of Financial Institution Transition Rule to Interest Allocation Rules

### SEC. 521. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES.

(a) IN GENERAL.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed. 26 USC 864 note.

(b) EFFECTIVE DATE.—

26 USC 864 note.

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of the first taxable year beginning after December 31, 1995, the pre-effective date portion of the interest expense of the corporation referred to in such paragraph (5) of such section 1215(c) for such taxable year shall be allocated and apportioned without regard to such amendment. For purposes of the preceding sentence, the pre-effective date portion is the amount which bears the same ratio to the interest expense for such taxable year as the number of days during such taxable year before the date of the enactment of this Act bears to 366.

Approved August 21, 1996.

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#### LEGISLATIVE HISTORY—H.R. 3103 (S. 1028) (S. 1698):

HOUSE REPORTS: Nos. 104-496, Pt. 1 (Comm. on Ways and Means) and 104-736 (Comm. of Conference).

SENATE REPORTS: No. 104-156 accompanying S. 1028 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Mar. 28, considered and passed House.

Apr. 18, 23, considered and passed Senate, amended, in lieu of S. 1028.

Aug. 1, House agreed to conference report.

Aug. 2, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 21, Presidential remarks and statement.

Public Law 104-192  
104th Congress

An Act

Aug. 21, 1996  
[H.R. 3680]

To amend title 18, United States Code, to carry out the international obligations of the United States under the Geneva Conventions to provide criminal penalties for certain war crimes.

War Crimes Act  
of 1996.  
18 USC 2401  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "War Crimes Act of 1996".

**SEC. 2. CRIMINAL PENALTIES FOR CERTAIN WAR CRIMES.**

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

**"CHAPTER 118—WAR CRIMES**

"Sec.  
"2401. War crimes.

**"§ 2401. War crimes**

"(a) OFFENSE.—Whoever, whether inside or outside the United States, commits a grave breach of the Geneva Conventions, in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.

"(b) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are that the person committing such breach or the victim of such breach is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

"(c) DEFINITIONS.—As used in this section, the term 'grave breach of the Geneva Conventions' means conduct defined as a grave breach in any of the international conventions relating to the laws of warfare signed at Geneva 12 August 1949 or any protocol to any such convention, to which the United States is a party."

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

"118. War crimes ..... 2401".

Approved August 21, 1996.

**LEGISLATIVE HISTORY—H.R. 3680:**

HOUSE REPORTS: No. 104-698 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 29, considered and passed House.

Aug. 2, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 21, Presidential statement.

Public Law 104-193  
104th Congress

An Act

To provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997.

Aug. 22, 1996

[H.R. 3734]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Personal Responsibility and Work Opportunity Reconciliation Act of 1996”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

**TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

- Sec. 101. Findings.
- Sec. 102. Reference to Social Security Act.
- Sec. 103. Block grants to States.
- Sec. 104. Services provided by charitable, religious, or private organizations.
- Sec. 105. Census data on grandparents as primary caregivers for their grandchildren.
- Sec. 106. Report on data processing.
- Sec. 107. Study on alternative outcomes measures.
- Sec. 108. Conforming amendments to the Social Security Act.
- Sec. 109. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
- Sec. 110. Conforming amendments to other laws.
- Sec. 111. Development of prototype of counterfeit-resistant Social Security card required.
- Sec. 112. Modifications to the job opportunities for certain low-income individuals program.
- Sec. 113. Secretarial submission of legislative proposal for technical and conforming amendments.
- Sec. 114. Assuring medicaid coverage for low-income families.
- Sec. 115. Denial of assistance and benefits for certain drug-related convictions.
- Sec. 116. Effective date; transition rule.

**TITLE II—SUPPLEMENTAL SECURITY INCOME**

- Sec. 200. Reference to Social Security Act.

**Subtitle A—Eligibility Restrictions**

- Sec. 201. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
- Sec. 202. Denial of SSI benefits for fugitive felons and probation and parole violators.
- Sec. 203. Treatment of prisoners.
- Sec. 204. Effective date of application for benefits.

**Subtitle B—Benefits for Disabled Children**

- Sec. 211. Definition and eligibility rules.
- Sec. 212. Eligibility redeterminations and continuing disability reviews.

Personal  
Responsibility  
and Work  
Opportunity  
Reconciliation  
Act of 1996.  
42 USC 1305  
note.

- Sec. 213. Additional accountability requirements.
- Sec. 214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.
- Sec. 215. Regulations.

#### Subtitle C—Additional Enforcement Provision

- Sec. 221. Installment payment of large past-due supplemental security income benefits.
- Sec. 222. Regulations.

#### Subtitle D—Studies Regarding Supplemental Security Income Program

- Sec. 231. Annual report on the supplemental security income program.
- Sec. 232. Study by General Accounting Office.

### TITLE III—CHILD SUPPORT

- Sec. 300. Reference to Social Security Act.

#### Subtitle A—Eligibility for Services; Distribution of Payments

- Sec. 301. State obligation to provide child support enforcement services.
- Sec. 302. Distribution of child support collections.
- Sec. 303. Privacy safeguards.
- Sec. 304. Rights to notification of hearings.

#### Subtitle B—Locate and Case Tracking

- Sec. 311. State case registry.
- Sec. 312. Collection and disbursement of support payments.
- Sec. 313. State directory of new hires.
- Sec. 314. Amendments concerning income withholding.
- Sec. 315. Locator information from interstate networks.
- Sec. 316. Expansion of the Federal Parent Locator Service.
- Sec. 317. Collection and use of Social Security numbers for use in child support enforcement.

#### Subtitle C—Streamlining and Uniformity of Procedures

- Sec. 321. Adoption of uniform State laws.
- Sec. 322. Improvements to full faith and credit for child support orders.
- Sec. 323. Administrative enforcement in interstate cases.
- Sec. 324. Use of forms in interstate enforcement.
- Sec. 325. State laws providing expedited procedures.

#### Subtitle D—Paternity Establishment

- Sec. 331. State laws concerning paternity establishment.
- Sec. 332. Outreach for voluntary paternity establishment.
- Sec. 333. Cooperation by applicants for and recipients of part A assistance.

#### Subtitle E—Program Administration and Funding

- Sec. 341. Performance-based incentives and penalties.
- Sec. 342. Federal and State reviews and audits.
- Sec. 343. Required reporting procedures.
- Sec. 344. Automated data processing requirements.
- Sec. 345. Technical assistance.
- Sec. 346. Reports and data collection by the Secretary.

#### Subtitle F—Establishment and Modification of Support Orders

- Sec. 351. Simplified process for review and adjustment of child support orders.
- Sec. 352. Furnishing consumer reports for certain purposes relating to child support.
- Sec. 353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.

#### Subtitle G—Enforcement of Support Orders

- Sec. 361. Internal Revenue Service collection of arrearages.
- Sec. 362. Authority to collect support from Federal employees.
- Sec. 363. Enforcement of child support obligations of members of the Armed Forces.
- Sec. 364. Voiding of fraudulent transfers.
- Sec. 365. Work requirement for persons owing past-due child support.
- Sec. 366. Definition of support order.
- Sec. 367. Reporting arrearages to credit bureaus.
- Sec. 368. Liens.

- Sec. 369. State law authorizing suspension of licenses.
- Sec. 370. Denial of passports for nonpayment of child support.
- Sec. 371. International support enforcement.
- Sec. 372. Financial institution data matches.
- Sec. 373. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.
- Sec. 374. Nondischargeability in bankruptcy of certain debts for the support of a child.
- Sec. 375. Child support enforcement for Indian tribes.

#### Subtitle H—Medical Support

- Sec. 381. Correction to ERISA definition of medical child support order.
- Sec. 382. Enforcement of orders for health care coverage.

#### Subtitle I—Enhancing Responsibility and Opportunity for Non-Residential Parents

- Sec. 391. Grants to States for access and visitation programs.

#### Subtitle J—Effective Dates and Conforming Amendments

- Sec. 395. Effective dates and conforming amendments.

### TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

- Sec. 400. Statements of national policy concerning welfare and immigration.

#### Subtitle A—Eligibility for Federal Benefits

- Sec. 401. Aliens who are not qualified aliens ineligible for Federal public benefits.
- Sec. 402. Limited eligibility of qualified aliens for certain Federal programs.
- Sec. 403. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.
- Sec. 404. Notification and information reporting.

#### Subtitle B—Eligibility for State and Local Public Benefits Programs

- Sec. 411. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits.
- Sec. 412. State authority to limit eligibility of qualified aliens for State public benefits.

#### Subtitle C—Attribution of Income and Affidavits of Support

- Sec. 421. Federal attribution of sponsor's income and resources to alien.
- Sec. 422. Authority for States to provide for attribution of sponsors income and resources to the alien with respect to State programs.
- Sec. 423. Requirements for sponsor's affidavit of support.

#### Subtitle D—General Provisions

- Sec. 431. Definitions.
- Sec. 432. Verification of eligibility for Federal public benefits.
- Sec. 433. Statutory construction.
- Sec. 434. Communication between State and local government agencies and the Immigration and Naturalization Service.
- Sec. 435. Qualifying quarters.

#### Subtitle E—Conforming Amendments Relating to Assisted Housing

- Sec. 441. Conforming amendments relating to assisted housing.

#### Subtitle F—Earning Income Credit Denied to Unauthorized Employees

- Sec. 451. Earned income credit denied to individuals not authorized to be employed in the United States.

### TITLE V—CHILD PROTECTION

- Sec. 501. Authority of States to make foster care maintenance payments on behalf of children in any private child care institution.
- Sec. 502. Extension of enhanced match for implementation of statewide automated child welfare information systems.
- Sec. 503. National random sample study of child welfare.
- Sec. 504. Redesignation of section 1123.
- Sec. 505. Kinship care.

### TITLE VI—CHILD CARE

- Sec. 601. Short title and references.
- Sec. 602. Goals.

- Sec. 603. Authorization of appropriations and entitlement authority.
- Sec. 604. Lead agency.
- Sec. 605. Application and plan.
- Sec. 606. Limitation on State allotments.
- Sec. 607. Activities to improve the quality of child care.
- Sec. 608. Repeal of early childhood development and before- and after-school care requirement.
- Sec. 609. Administration and enforcement.
- Sec. 610. Payments.
- Sec. 611. Annual report and audits.
- Sec. 612. Report by the Secretary.
- Sec. 613. Allotments.
- Sec. 614. Definitions.
- Sec. 615. Effective date.

#### TITLE VII—CHILD NUTRITION PROGRAMS

##### Subtitle A—National School Lunch Act

- Sec. 701. State disbursement to schools.
- Sec. 702. Nutritional and other program requirements.
- Sec. 703. Free and reduced price policy statement.
- Sec. 704. Special assistance.
- Sec. 705. Miscellaneous provisions and definitions.
- Sec. 706. Summer food service program for children.
- Sec. 707. Commodity distribution.
- Sec. 708. Child and adult care food program.
- Sec. 709. Pilot projects.
- Sec. 710. Reduction of paperwork.
- Sec. 711. Information on income eligibility.
- Sec. 712. Nutrition guidance for child nutrition programs.

##### Subtitle B—Child Nutrition Act of 1966

- Sec. 721. Special milk program.
- Sec. 722. Free and reduced price policy statement.
- Sec. 723. School breakfast program authorization.
- Sec. 724. State administrative expenses.
- Sec. 725. Regulations.
- Sec. 726. Prohibitions.
- Sec. 727. Miscellaneous provisions and definitions.
- Sec. 728. Accounts and records.
- Sec. 729. Special supplemental nutrition program for women, infants, and children.
- Sec. 730. Cash grants for nutrition education.
- Sec. 731. Nutrition education and training.

##### Subtitle C—Miscellaneous Provisions

- Sec. 741. Coordination of school lunch, school breakfast, and summer food service programs.
- Sec. 742. Requirements relating to provision of benefits based on citizenship, alienage, or immigration status under the National School Lunch Act, the Child Nutrition Act of 1966, and certain other acts.

#### TITLE VIII—FOOD STAMPS AND COMMODITY DISTRIBUTION

##### Subtitle A—Food Stamp Program

- Sec. 801. Definition of certification period.
- Sec. 802. Definition of coupon.
- Sec. 803. Treatment of children living at home.
- Sec. 804. Adjustment of thrifty food plan.
- Sec. 805. Definition of homeless individual.
- Sec. 806. State option for eligibility standards.
- Sec. 807. Earnings of students.
- Sec. 808. Energy assistance.
- Sec. 809. Deductions from income.
- Sec. 810. Vehicle allowance.
- Sec. 811. Vendor payments for transitional housing counted as income.
- Sec. 812. Simplified calculation of income for the self-employed.
- Sec. 813. Doubled penalties for violating food stamp program requirements.
- Sec. 814. Disqualification of convicted individuals.
- Sec. 815. Disqualification.
- Sec. 816. Caretaker exemption.
- Sec. 817. Employment and training.

- Sec. 818. Food stamp eligibility.
- Sec. 819. Comparable treatment for disqualification.
- Sec. 820. Disqualification for receipt of multiple food stamp benefits.
- Sec. 821. Disqualification of fleeing felons.
- Sec. 822. Cooperation with child support agencies.
- Sec. 823. Disqualification relating to child support arrears.
- Sec. 824. Work requirement.
- Sec. 825. Encouragement of electronic benefit transfer systems.
- Sec. 826. Value of minimum allotment.
- Sec. 827. Benefits on recertification.
- Sec. 828. Optional combined allotment for expedited households.
- Sec. 829. Failure to comply with other means-tested public assistance programs.
- Sec. 830. Allotments for households residing in centers.
- Sec. 831. Condition precedent for approval of retail food stores and wholesale food concerns.
- Sec. 832. Authority to establish authorization periods.
- Sec. 833. Information for verifying eligibility for authorization.
- Sec. 834. Waiting period for stores that fail to meet authorization criteria.
- Sec. 835. Operation of food stamp offices.
- Sec. 836. State employee and training standards.
- Sec. 837. Exchange of law enforcement information.
- Sec. 838. Expedited coupon service.
- Sec. 839. Withdrawing fair hearing requests.
- Sec. 840. Income, eligibility, and immigration status verification systems.
- Sec. 841. Investigations.
- Sec. 842. Disqualification of retailers who intentionally submit falsified applications.
- Sec. 843. Disqualification of retailers who are disqualified under the WIC program.
- Sec. 844. Collection of overissuances.
- Sec. 845. Authority to suspend stores violating program requirements pending administrative and judicial review.
- Sec. 846. Expanded criminal forfeiture for violations.
- Sec. 847. Limitation on Federal match.
- Sec. 848. Standards for administration.
- Sec. 849. Work supplementation or support program.
- Sec. 850. Waiver authority.
- Sec. 851. Response to waivers.
- Sec. 852. Employment initiatives program.
- Sec. 853. Reauthorization.
- Sec. 854. Simplified food stamp program.
- Sec. 855. Study of the use of food stamps to purchase vitamins and minerals.
- Sec. 856. Deficit reduction.

#### Subtitle B—Commodity Distribution Programs

- Sec. 871. Emergency food assistance program.
- Sec. 872. Food bank demonstration project.
- Sec. 873. Hunger prevention programs.
- Sec. 874. Report on entitlement commodity processing.

#### Subtitle C—Electronic Benefit Transfer Systems

- Sec. 891. Provisions to encourage electronic benefit transfer systems.

### TITLE IX—MISCELLANEOUS

- Sec. 901. Appropriation by State legislatures.
- Sec. 902. Sanctioning for testing positive for controlled substances.
- Sec. 903. Elimination of housing assistance with respect to fugitive felons and probation and parole violators.
- Sec. 904. Sense of the Senate regarding the inability of the noncustodial parent to pay child support.
- Sec. 905. Establishing national goals to prevent teenage pregnancies.
- Sec. 906. Sense of the Senate regarding enforcement of statutory rape laws.
- Sec. 907. Provisions to encourage electronic benefit transfer systems.
- Sec. 908. Reduction of block grants to States for social services; use of vouchers.
- Sec. 909. Rules relating to denial of earned income credit on basis of disqualified income.
- Sec. 910. Modification of adjusted gross income definition for earned income credit.
- Sec. 911. Fraud under means-tested welfare and public assistance programs.
- Sec. 912. Abstinence education.
- Sec. 913. Change in reference.



## TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

### 42 USC 601 note. SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) Marriage is the foundation of a successful society.  
(2) Marriage is an essential institution of a successful society which promotes the interests of children.

(3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the well-being of children.

(4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.

(5) The number of individuals receiving aid to families with dependent children (in this section referred to as "AFDC") has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present.

(A)(i) The average monthly number of children receiving AFDC benefits—

(I) was 3,300,000 in 1965;

(II) was 6,200,000 in 1970;

(III) was 7,400,000 in 1980; and

(IV) was 9,300,000 in 1992.

(ii) While the number of children receiving AFDC benefits increased nearly threefold between 1965 and 1992, the total number of children in the United States aged 0 to 18 has declined by 5.5 percent.

(B) The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.

(C) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.

(6) The increase of out-of-wedlock pregnancies and births is well documented as follows:

(A) It is estimated that the rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991. The overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992. In contrast, the overall pregnancy rate for married couples decreased 7.3 percent between 1980 and 1991, from 126.9 pregnancies per 1,000 married women in 1980 to 117.6 pregnancies in 1991.

(B) The total of all out-of-wedlock births between 1970 and 1991 has risen from 10.7 percent to 29.5 percent and

if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock.

(7) An effective strategy to combat teenage pregnancy must address the issue of male responsibility, including statutory rape culpability and prevention. The increase of teenage pregnancies among the youngest girls is particularly severe and is linked to predatory sexual practices by men who are significantly older.

(A) It is estimated that in the late 1980's, the rate for girls age 14 and under giving birth increased 26 percent.

(B) Data indicates that at least half of the children born to teenage mothers are fathered by adult men. Available data suggests that almost 70 percent of births to teenage girls are fathered by men over age 20.

(C) Surveys of teen mothers have revealed that a majority of such mothers have histories of sexual and physical abuse, primarily with older adult men.

(8) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented as follows:

(A) Young women 17 and under who give birth outside of marriage are more likely to go on public assistance and to spend more years on welfare once enrolled. These combined effects of "younger and longer" increase total AFDC costs per household by 25 percent to 30 percent for 17-year-olds.

(B) Children born out-of-wedlock have a substantially higher risk of being born at a very low or moderately low birth weight.

(C) Children born out-of-wedlock are more likely to experience low verbal cognitive attainment, as well as more child abuse, and neglect.

(D) Children born out-of-wedlock were more likely to have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(E) Being born out-of-wedlock significantly reduces the chances of the child growing up to have an intact marriage.

(F) Children born out-of-wedlock are 3 times more likely to be on welfare when they grow up.

(9) Currently 35 percent of children in single-parent homes were born out-of-wedlock, nearly the same percentage as that of children in single-parent homes whose parents are divorced (37 percent). While many parents find themselves, through divorce or tragic circumstances beyond their control, facing the difficult task of raising children alone, nevertheless, the negative consequences of raising children in single-parent homes are well documented as follows:

(A) Only 9 percent of married-couple families with children under 18 years of age have income below the national poverty level. In contrast, 46 percent of female-headed households with children under 18 years of age are below the national poverty level.

(B) Among single-parent families, nearly  $\frac{1}{2}$  of the mothers who never married received AFDC while only  $\frac{1}{5}$  of divorced mothers received AFDC.

(C) Children born into families receiving welfare assistance are 3 times more likely to be on welfare when they reach adulthood than children not born into families receiving welfare.

(D) Mothers under 20 years of age are at the greatest risk of bearing low birth weight babies.

(E) The younger the single-parent mother, the less likely she is to finish high school.

(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at \$120,000,000,000.

(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact 2-parent families.

(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas with higher percentages of single-parent households have higher rates of violent crime.

(M) Of those youth held for criminal offenses within the State juvenile justice system, only 29.8 percent lived primarily in a home with both parents. In contrast to these incarcerated youth, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

(10) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in part A of title IV of the Social Security Act (as amended by section 103(a) of this Act) is intended to address the crisis.

#### SEC. 102. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

#### SEC. 103. BLOCK GRANTS TO STATES.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended—

(1) by striking all that precedes section 418 (as added by section 603(b)(2) of this Act) and inserting the following:

42 USC prec.  
601, 601-610,  
612, 613, 615-  
617.

## **"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

### **"SEC. 401. PURPOSE.**

42 USC 601.

"(a) IN GENERAL.—The purpose of this part is to increase the flexibility of States in operating a program designed to—

"(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

"(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

"(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

"(4) encourage the formation and maintenance of two-parent families.

"(b) NO INDIVIDUAL ENTITLEMENT.—This part shall not be interpreted to entitle any individual or family to assistance under any State program funded under this part.

### **"SEC. 402. ELIGIBLE STATES; STATE PLAN.**

42 USC 602.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that the Secretary has found includes the following:

"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

"(i) Conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.

"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government.

"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy

ratio of the State (as defined in section 403(a)(2)(B)) for calendar years 1996 through 2005.

“(vi) Conduct a program, designed to reach State and local law enforcement officials, the education system, and relevant counseling services, that provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded in scope to include men.

“(B) SPECIAL PROVISIONS.—

“(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

“(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

“(iii) The document shall set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how the State will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process.

“(iv) Not later than 1 year after the date of enactment of this Act, unless the chief executive officer of the State opts out of this provision by notifying the Secretary, a State shall, consistent with the exception provided in section 407(e)(2), require a parent or caretaker receiving assistance under the program who, after receiving such assistance for 2 months is not exempt from work requirements and is not engaged in work, as determined under section 407(c), to participate in community service employment, with minimum hours per week and tasks to be determined by the State.

“(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

“(3) CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E, and that the State will take such actions as are necessary to ensure that children receiving assistance under such part are eligible for medical assistance under the State plan under title XIX.

“(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

“(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

“(B) have had at least 45 days to submit comments on the plan and the design of such services.

“(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each member of an Indian tribe, who is domiciled in the State and is not eligible for assistance under a tribal family assistance plan approved under section 412, with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government.

“(6) CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE AGAINST PROGRAM FRAUD AND ABUSE.—A certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

“(7) OPTIONAL CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.—

“(A) IN GENERAL.—At the option of the State, a certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to—

“(i) screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;

“(ii) refer such individuals to counseling and supportive services; and

“(iii) waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

“(B) DOMESTIC VIOLENCE DEFINED.—For purposes of this paragraph, the term ‘domestic violence’ has the same meaning as the term ‘battered or subjected to extreme cruelty’, as defined in section 408(a)(7)(C)(iii).

“(b) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.

**“SEC. 403. GRANTS TO STATES.**

42 USC 603.

“(a) GRANTS.—

“(1) FAMILY ASSISTANCE GRANT.—

“(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, a grant in an amount equal to the State family assistance grant.

“(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term ‘State family assistance grant’ means the greatest of—

“(i)  $\frac{1}{3}$  of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect));

“(ii)(I) the total amount required to be paid to the State under former section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect)); plus

“(II) an amount equal to 85 percent of the amount (if any) by which the total amount required to be paid to the State under former section 403(a)(5) for emergency assistance for fiscal year 1995 exceeds the total amount required to be paid to the State under former section 403(a)(5) for fiscal year 1994, if, during fiscal year 1994 or 1995, the Secretary approved under former section 402 an amendment to the former State plan with respect to the provision of emergency assistance; or

“(iii)  $\frac{4}{5}$  of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of former section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under former section 403(l) (as so in effect).

“(C) TOTAL AMOUNT REQUIRED TO BE PAID TO THE STATE UNDER FORMER SECTION 403 DEFINED.—As used in this part, the term ‘total amount required to be paid to the State under former section 403’ means, with respect to a fiscal year—

“(i) in the case of a State to which section 1108 does not apply, the sum of—

“(I) the Federal share of maintenance assistance expenditures for the fiscal year, before reduction pursuant to subparagraph (B) or (C) of section 403(b)(2) (as in effect on September 30, 1995), as reported by the State on ACF Form 231;

“(II) the Federal share of administrative expenditures (including administrative expenditures for the development of management information systems) for the fiscal year, as reported by the State on ACF Form 231;

“(III) the Federal share of emergency assistance expenditures for the fiscal year, as reported by the State on ACF Form 231;

“(IV) the Federal share of expenditures for the fiscal year with respect to child care pursuant to subsections (g) and (i) of former section 402 (as in effect on September 30, 1995), as reported by the State on ACF Form 231; and

“(V) the Federal obligations made to the State under section 403 for the fiscal year with respect to the State program operated under part F (as in effect on September 30, 1995), as determined by the Secretary, including additional obligations or reductions in obligations made after the close of the fiscal year; and

“(ii) in the case of a State to which section 1108 applies, the lesser of—

“(I) the sum described in clause (i); or

“(II) the total amount certified by the Secretary under former section 403 (as in effect during the fiscal year) with respect to the territory.

“(D) INFORMATION TO BE USED IN DETERMINING AMOUNTS.—

“(i) FOR FISCAL YEARS 1992 AND 1993.—

“(I) In determining the amounts described in subclauses (I) through (IV) of subparagraph (C)(i) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of April 28, 1995.

“(II) In determining the amount described in subparagraph (C)(i)(V) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of January 6, 1995.

“(ii) FOR FISCAL YEAR 1994.—In determining the amounts described in subparagraph (C)(i) for any State for fiscal year 1994, the Secretary shall use information available as of April 28, 1995.

“(iii) FOR FISCAL YEAR 1995.—

“(I) In determining the amount described in subparagraph (B)(ii)(II) for any State for fiscal year 1995, the Secretary shall use the information which was reported by the States and estimates made by the States with respect to emergency assistance expenditures and was available as of August 11, 1995.

“(II) In determining the amounts described in subclauses (I) through (III) of subparagraph (C)(i) for any State for fiscal year 1995, the Secretary shall use information available as of October 2, 1995.

“(III) In determining the amount described in subparagraph (C)(i)(IV) for any State for fiscal year 1995, the Secretary shall use information available as of February 28, 1996.

“(IV) In determining the amount described in subparagraph (C)(i)(V) for any State for fiscal year



1995, the Secretary shall use information available as of October 5, 1995.

“(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums as are necessary for grants under this paragraph.

“(2) BONUS TO REWARD DECREASE IN ILLEGITIMACY.—

“(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary a grant for each bonus year for which the State demonstrates a net decrease in out-of-wedlock births.

“(B) AMOUNT OF GRANT.—

“(i) IF 5 ELIGIBLE STATES.—If there are 5 eligible States for a bonus year, the amount of the grant shall be \$20,000,000.

“(ii) IF FEWER THAN 5 ELIGIBLE STATES.—If there are fewer than 5 eligible States for a bonus year, the amount of the grant shall be \$25,000,000.

“(C) DEFINITIONS.—As used in this paragraph:

“(i) ELIGIBLE STATE.—

“(I) IN GENERAL.—The term ‘eligible State’ means a State that the Secretary determines meets the following requirements:

“(aa) The State demonstrates that the number of out-of-wedlock births that occurred in the State during the most recent 2-year period for which such information is available decreased as compared to the number of such births that occurred during the previous 2-year period, and the magnitude of the decrease for the State for the period is not exceeded by the magnitude of the corresponding decrease for 5 or more other States for the period.

“(bb) The rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.

“(II) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—In making the determination required by subclause (I), the Secretary shall disregard—

“(aa) any difference between the number of out-of-wedlock births that occurred in a State for a fiscal year and the number of out-of-wedlock births that occurred in a State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the number of out-of-wedlock births; and

“(bb) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate such rate.

"(ii) BONUS YEAR.—The term 'bonus year' means fiscal years 1999, 2000, 2001, and 2002.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1999 through 2002, such sums as are necessary for grants under this paragraph.

"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—Each qualifying State shall, subject to subparagraph (F), be entitled to receive from the Secretary—

"(i) for fiscal year 1998 a grant in an amount equal to 2.5 percent of the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(ii) for each of fiscal years 1999, 2000, and 2001, a grant in an amount equal to the sum of—

"(I) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

"(II) 2.5 percent of the sum of—

"(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year for which the grant is to be made.

"(B) PRESERVATION OF GRANT WITHOUT INCREASES FOR STATES FAILING TO REMAIN QUALIFYING STATES.—Each State that is not a qualifying State for a fiscal year specified in subparagraph (A)(ii) but was a qualifying State for a prior fiscal year shall, subject to subparagraph (F), be entitled to receive from the Secretary for the specified fiscal year, a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year for which the State was a qualifying State.

"(C) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—

"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

"(II) the population growth rate of the State (as determined by the Bureau of the Census) for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1998 by reason

of clause (i) if the State is not a qualifying State for fiscal year 1998 by reason of clause (i).

“(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1998, 1999, 2000, and 2001 if—

“(I) the level of welfare spending per poor person by the State for fiscal year 1994 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1994; or

“(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, according to the population estimates in publication CB94-204 of the Bureau of the Census.

“(D) DEFINITIONS.—As used in this paragraph:

“(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term ‘level of State welfare spending per poor person’ means, with respect to a State and a fiscal year—

“(I) the sum of—

“(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

“(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

“(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

“(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term ‘national average level of State welfare spending per poor person’ means, with respect to a fiscal year, an amount equal to—

“(I) the total amount required to be paid to the States under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; divided by

“(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

“(iii) STATE.—The term ‘State’ means each of the 50 States of the United States and the District of Columbia.

“(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1998, 1999, 2000, and 2001 such sums as are necessary for grants under this paragraph, in a total amount not to exceed \$800,000,000.

“(F) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount

of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to any State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

“(G) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this paragraph after fiscal year 2001.

“(4) BONUS TO REWARD HIGH PERFORMANCE STATES.—

“(A) IN GENERAL.—The Secretary shall make a grant pursuant to this paragraph to each State for each bonus year for which the State is a high performing State.

“(B) AMOUNT OF GRANT.—

“(i) IN GENERAL.—Subject to clause (ii) of this subparagraph, the Secretary shall determine the amount of the grant payable under this paragraph to a high performing State for a bonus year, which shall be based on the score assigned to the State under subparagraph (D)(i) for the fiscal year that immediately precedes the bonus year.

“(ii) LIMITATION.—The amount payable to a State under this paragraph for a bonus year shall not exceed 5 percent of the State family assistance grant.

“(C) FORMULA FOR MEASURING STATE PERFORMANCE.—Not later than 1 year after the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Secretary, in consultation with the National Governors’ Association and the American Public Welfare Association, shall develop a formula for measuring State performance in operating the State program funded under this part so as to achieve the goals set forth in section 401(a).

“(D) SCORING OF STATE PERFORMANCE; SETTING OF PERFORMANCE THRESHOLDS.—For each bonus year, the Secretary shall—

“(i) use the formula developed under subparagraph (C) to assign a score to each eligible State for the fiscal year that immediately precedes the bonus year; and

“(ii) prescribe a performance threshold in such a manner so as to ensure that—

“(I) the average annual total amount of grants to be made under this paragraph for each bonus year equals \$200,000,000; and

“(II) the total amount of grants to be made under this paragraph for all bonus years equals \$1,000,000,000.

“(E) DEFINITIONS.—As used in this paragraph:

“(i) BONUS YEAR.—The term ‘bonus year’ means fiscal years 1999, 2000, 2001, 2002, and 2003.

“(ii) HIGH PERFORMING STATE.—The term ‘high performing State’ means, with respect to a bonus year, an eligible State whose score assigned pursuant to subparagraph (D)(i) for the fiscal year immediately preceding the bonus year equals or exceeds the

performance threshold prescribed under subparagraph (D)(ii) for such preceding fiscal year.

“(F) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1999 through 2003 \$1,000,000,000 for grants under this paragraph.

“(b) CONTINGENCY FUND.—

“(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the ‘Contingency Fund for State Welfare Programs’ (in this section referred to as the ‘Fund’).

“(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1997, 1998, 1999, 2000, and 2001 such sums as are necessary for payment to the Fund in a total amount not to exceed \$2,000,000,000.

“(3) GRANTS.—

“(A) PROVISIONAL PAYMENTS.—If an eligible State submits to the Secretary a request for funds under this paragraph during an eligible month, the Secretary shall, subject to this paragraph, pay to the State, from amounts appropriated pursuant to paragraph (2), an amount equal to the amount of funds so requested.

“(B) PAYMENT PRIORITY.—The Secretary shall make payments under subparagraph (A) in the order in which the Secretary receives requests for such payments.

“(C) LIMITATIONS.—

“(i) MONTHLY PAYMENT TO A STATE.—The total amount paid to a single State under subparagraph (A) during a month shall not exceed  $\frac{1}{12}$  of 20 percent of the State family assistance grant.

“(ii) PAYMENTS TO ALL STATES.—The total amount paid to all States under subparagraph (A) during fiscal years 1997 through 2001 shall not exceed the total amount appropriated pursuant to paragraph (2).

“(4) ANNUAL RECONCILIATION.—Notwithstanding paragraph (3), at the end of each fiscal year, each State shall remit to the Secretary an amount equal to the amount (if any) by which the total amount paid to the State under paragraph (3) during the fiscal year exceeds—

“(A) the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on September 30, 1995) of the amount (if any) by which—

“(i) if the Secretary makes a payment to the State under section 418(a)(2) in the fiscal year—

“(I) the expenditures under the State program funded under this part for the fiscal year, excluding any amounts made available by the Federal Government (except amounts paid to the State under paragraph (3) during the fiscal year that have been expended by the State) and any amounts expended by the State during the fiscal year for child care; exceeds

“(II) historic State expenditures (as defined in section 409(a)(7)(B)(iii)), excluding the expenditures by the State for child care under subsection

(g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994 minus any Federal payment with respect to such child care expenditures; or

“(ii) if the Secretary does not make a payment to the State under section 418(a)(2) in the fiscal year—

“(I) the expenditures under the State program funded under this part for the fiscal year (excluding any amounts made available by the Federal Government, except amounts paid to the State under paragraph (3) during the fiscal year that have been expended by the State); exceeds

“(II) historic State expenditures (as defined in section 409(a)(7)(B)(iii)); multiplied by

“(B)  $\frac{1}{12}$  times the number of months during the fiscal year for which the Secretary makes a payment to the State under this subsection.

“(5) ELIGIBLE MONTH.—As used in paragraph (3)(A), the term ‘eligible month’ means, with respect to a State, a month in the 2-month period that begins with any month for which the State is a needy State.

“(6) NEEDY STATE.—For purposes of paragraph (5), a State is a needy State for a month if—

“(A) the average rate of—

“(i) total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent; and

“(ii) total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; or

“(B) as determined by the Secretary of Agriculture (in the discretion of the Secretary of Agriculture), the monthly average number of individuals (as of the last day of each month) participating in the food stamp program in the State in the then most recently concluded 3-month period for which data are available exceeds by not less than 10 percent the lesser of—

“(i) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1994 if the amendments made by titles IV and VIII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 had been in effect throughout fiscal year 1994; or

“(ii) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1995 if the amendments made by titles IV and VIII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 had been in effect throughout fiscal year 1995.

“(7) OTHER TERMS DEFINED.—As used in this subsection:

“(A) STATE.—The term ‘State’ means each of the 50 States of the United States and the District of Columbia.

“(B) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(8) ANNUAL REPORTS.—The Secretary shall annually report to the Congress on the status of the Fund.

42 USC 604.

**“SEC. 404. USE OF GRANTS.**

“(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 403 may use the grant—

“(1) in any manner that is reasonably calculated to accomplish the purpose of this part, including to provide low income households with assistance in meeting home heating and cooling costs; or

“(2) in any manner that the State was authorized to use amounts received under part A or F, as such parts were in effect on September 30, 1995.

“(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

“(1) LIMITATION.—A State to which a grant is made under section 403 shall not expend more than 15 percent of the grant for administrative purposes.

“(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

“(c) AUTHORITY TO TREAT INTERSTATE IMMIGRANTS UNDER RULES OF FORMER STATE.—A State operating a program funded under this part may apply to a family the rules (including benefit amounts) of the program funded under this part of another State if the family has moved to the State from the other State and has resided in the State for less than 12 months.

“(d) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

“(1) IN GENERAL.—A State may use not more than 30 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:

“(A) Title XX of this Act.

“(B) The Child Care and Development Block Grant Act of 1990.

“(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—Notwithstanding paragraph (1), not more than  $\frac{1}{3}$  of the total amount paid to a State under this part for a fiscal year that is used to carry out State programs pursuant to provisions of law specified in paragraph (1) may be used to carry out State programs pursuant to title XX.

“(3) APPLICABLE RULES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, any amount paid to a State under this part that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program, and the expenditure of any amount so used

shall not be considered to be an expenditure under this part.

“(B) EXCEPTION RELATING TO TITLE XX PROGRAMS.—All amounts paid to a State under this part that are used to carry out State programs pursuant to title XX shall be used only for programs and services to children or their families whose income is less than 200 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

“(e) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.

“(f) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 403 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

“(g) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 403 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.

“(h) USE OF FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS.—

“(1) IN GENERAL.—A State to which a grant is made under section 403 may use the grant to carry out a program to fund individual development accounts (as defined in paragraph (2)) established by individuals eligible for assistance under the State program funded under this part.

“(2) INDIVIDUAL DEVELOPMENT ACCOUNTS.—

“(A) ESTABLISHMENT.—Under a State program carried out under paragraph (1), an individual development account may be established by or on behalf of an individual eligible for assistance under the State program operated under this part for the purpose of enabling the individual to accumulate funds for a qualified purpose described in subparagraph (B).

“(B) QUALIFIED PURPOSE.—A qualified purpose described in this subparagraph is 1 or more of the following, as provided by the qualified entity providing assistance to the individual under this subsection:

“(i) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution.

“(ii) FIRST HOME PURCHASE.—Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due.



## Regulations.

“(iii) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses.

“(C) CONTRIBUTIONS TO BE FROM EARNED INCOME.—An individual may only contribute to an individual development account such amounts as are derived from earned income, as defined in section 911(d)(2) of the Internal Revenue Code of 1986.

“(D) WITHDRAWAL OF FUNDS.—The Secretary shall establish such regulations as may be necessary to ensure that funds held in an individual development account are not withdrawn except for 1 or more of the qualified purposes described in subparagraph (B).

“(3) REQUIREMENTS.—

“(A) IN GENERAL.—An individual development account established under this subsection shall be a trust created or organized in the United States and funded through periodic contributions by the establishing individual and matched by or through a qualified entity for a qualified purpose (as described in paragraph (2)(B)).

“(B) QUALIFIED ENTITY.—As used in this subsection, the term ‘qualified entity’ means—

“(i) a not-for-profit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

“(ii) a State or local government agency acting in cooperation with an organization described in clause (i).

“(4) NO REDUCTION IN BENEFITS.—Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such law to be provided to or for the benefit of such individual, funds (including interest accruing) in an individual development account under this subsection shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such an account.

“(5) DEFINITIONS.—As used in this subsection—

“(A) ELIGIBLE EDUCATIONAL INSTITUTION.—The term ‘eligible educational institution’ means the following:

“(i) An institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this subsection.

“(ii) An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of the enactment of this subsection.

“(B) POST-SECONDARY EDUCATIONAL EXPENSES.—The term ‘post-secondary educational expenses’ means—

“(i) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and

“(ii) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

“(C) QUALIFIED ACQUISITION COSTS.—The term ‘qualified acquisition costs’ means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

“(D) QUALIFIED BUSINESS.—The term ‘qualified business’ means any business that does not contravene any law or public policy (as determined by the Secretary).

“(E) QUALIFIED BUSINESS CAPITALIZATION EXPENSES.—The term ‘qualified business capitalization expenses’ means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

“(F) QUALIFIED EXPENDITURES.—The term ‘qualified expenditures’ means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

“(G) QUALIFIED FIRST-TIME HOMEBUYER.—

“(i) IN GENERAL.—The term ‘qualified first-time homebuyer’ means a taxpayer (and, if married, the taxpayer’s spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subsection applies.

“(ii) DATE OF ACQUISITION.—The term ‘date of acquisition’ means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

“(H) QUALIFIED PLAN.—The term ‘qualified plan’ means a business plan which—

“(i) is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity,

“(ii) includes a description of services or goods to be sold, a marketing plan, and projected financial statements, and

“(iii) may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

“(I) QUALIFIED PRINCIPAL RESIDENCE.—The term ‘qualified principal residence’ means a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986), the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of such Code).

“(i) SANCTION WELFARE RECIPIENTS FOR FAILING TO ENSURE THAT MINOR DEPENDENT CHILDREN ATTEND SCHOOL.—A State to which a grant is made under section 403 shall not be prohibited

from sanctioning a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government or under the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977, if such adult fails to ensure that the minor dependent children of such adult attend school as required by the law of the State in which the minor children reside.

“(j) REQUIREMENT FOR HIGH SCHOOL DIPLOMA OR EQUIVALENT.—A State to which a grant is made under section 403 shall not be prohibited from sanctioning a family that includes an adult who is older than age 20 and younger than age 51 and who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government or under the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977, if such adult does not have, or is not working toward attaining, a secondary school diploma or its recognized equivalent unless such adult has been determined in the judgment of medical, psychiatric, or other appropriate professionals to lack the requisite capacity to complete successfully a course of study that would lead to a secondary school diploma or its recognized equivalent.

42 USC 605.

**“SEC. 405. ADMINISTRATIVE PROVISIONS.**

“(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 403 in quarterly installments, subject to this section.

“(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 412(a)(1)(B) with respect to the State.

“(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

“(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

“(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated under paragraph (1) with respect to a State, reduced or increased to the extent of any overpayment or underpayment which the Secretary of Health and Human Services determines was made under this part to the State for any prior quarter and with respect to which adjustment has not been made under this paragraph.

“(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

42 USC 606.

**“SEC. 406. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.**

“(a) LOAN AUTHORITY.—

“(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.

“(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term ‘loan-eligible State’ means a State against which a penalty has not been imposed under section 409(a)(1).

“(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

“(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 403(a) may be used, including—

“(1) welfare anti-fraud activities; and

“(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 412.

“(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1997 through 2002 shall not exceed 10 percent of the State family assistance grant.

“(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed \$1,700,000,000.

“(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

#### “SEC. 407. MANDATORY WORK REQUIREMENTS.

42 USC 607.

“(a) PARTICIPATION RATE REQUIREMENTS.—

“(1) ALL FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

“If the fiscal year is:	The minimum participation rate is:
1997 .....	25
1998 .....	30
1999 .....	35
2000 .....	40
2001 .....	45
2002 or thereafter .....	50.

“(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:

“If the fiscal year is:	The minimum participation rate is:
1997 .....	75
1998 .....	75
1999 or thereafter .....	90.

“(b) CALCULATION OF PARTICIPATION RATES.—

“(1) ALL FAMILIES.—

“(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

“(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

“(i) the number of families receiving assistance under the State program funded under this part that include an adult or a minor child head of household who is engaged in work for the month; divided by

“(ii) the amount by which—

“(I) the number of families receiving such assistance during the month that include an adult or a minor child head of household receiving such assistance; exceeds

“(II) the number of families receiving such assistance that are subject in such month to a penalty described in subsection (e)(1) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).

“(2) 2-PARENT FAMILIES.—

“(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

“(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term ‘number of 2-parent families’ shall be substituted for the term ‘number of families’ each place such latter term appears.

“(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

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“(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

“(i) the average monthly number of families receiving assistance during the immediately preceding fiscal year under the State program funded under this part is less than

“(ii) the average monthly number of families that received aid under the State plan approved under part A (as in effect on September 30, 1995) during fiscal year 1995.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

“(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations required by subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under the State program operated under the State plan approved under part A (as such plan and such part were in effect on September 30, 1995). Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

“(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families in the State that are receiving assistance under a tribal family assistance plan approved under section 412.

“(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—For any fiscal year, a State may, at its option, not require an individual who is a single custodial parent caring for a child who has not attained 12 months of age to engage in work, and may disregard such an individual in determining the participation rates under subsection (a) for not more than 12 months.

“(c) ENGAGED IN WORK.—

“(1) GENERAL RULES.—

“(A) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in work for a month in a fiscal year if the recipient is participating in work activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d), subject to this subsection:

<b>If the month is in fiscal year:</b>	<b>The minimum average number of hours per week is:</b>
1997 .....	20
1998 .....	20
1999 .....	25
2000 or thereafter .....	30.

“(B) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B), an individual is engaged in work for a month in a fiscal year if—

“(i) the individual is making progress in work activities for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d), subject to this subsection; and

“(ii) if the family of the individual receives federally-funded child care assistance and an adult in the family is not disabled or caring for a severely disabled child, the individual's spouse is making progress in work activities during the month, not fewer than 20 hours per week of which are attributable to an activity

described in paragraph (1), (2), (3), (4), (5), or (7) of subsection (d).

“(2) LIMITATIONS AND SPECIAL RULES.—

“(A) NUMBER OF WEEKS FOR WHICH JOB SEARCH COUNTS AS WORK.—

“(i) LIMITATION.—Notwithstanding paragraph (1) of this subsection, an individual shall not be considered to be engaged in work by virtue of participation in an activity described in subsection (d)(6) of a State program funded under this part, after the individual has participated in such an activity for 6 weeks (or, if the unemployment rate of the State is at least 50 percent greater than the unemployment rate of the United States, 12 weeks), or if the participation is for a week that immediately follows 4 consecutive weeks of such participation.

“(ii) LIMITED AUTHORITY TO COUNT LESS THAN FULL WEEK OF PARTICIPATION.—For purposes of clause (i) of this subparagraph, on not more than 1 occasion per individual, the State shall consider participation of the individual in an activity described in subsection (d)(6) for 3 or 4 days during a week as a week of participation in the activity by the individual.

“(B) SINGLE PARENT WITH CHILD UNDER AGE 6 DEEMED TO BE MEETING WORK PARTICIPATION REQUIREMENTS IF PARENT IS ENGAGED IN WORK FOR 20 HOURS PER WEEK.—For purposes of determining monthly participation rates under subsection (b)(1)(B)(i), a recipient in a 1-parent family who is the parent of a child who has not attained 6 years of age is deemed to be engaged in work for a month if the recipient is engaged in work for an average of at least 20 hours per week during the month.

“(C) TEEN HEAD OF HOUSEHOLD WHO MAINTAINS SATISFACTORY SCHOOL ATTENDANCE DEEMED TO BE MEETING WORK PARTICIPATION REQUIREMENTS.—For purposes of determining monthly participation rates under subsection (b)(1)(B)(i), a recipient who is a single head of household and has not attained 20 years of age is deemed, subject to subparagraph (D) of this paragraph, to be engaged in work for a month in a fiscal year if the recipient—

“(i) maintains satisfactory attendance at secondary school or the equivalent during the month; or

“(ii) participates in education directly related to employment for at least the minimum average number of hours per week specified in the table set forth in paragraph (1)(A) of this subsection.

“(D) NUMBER OF PERSONS THAT MAY BE TREATED AS ENGAGED IN WORK BY VIRTUE OF PARTICIPATION IN VOCATIONAL EDUCATION ACTIVITIES OR BEING A TEEN HEAD OF HOUSEHOLD WHO MAINTAINS SATISFACTORY SCHOOL ATTENDANCE.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 20 percent of individuals in all families and in 2-parent families may be determined to be engaged in work in the State for a month by reason of participation

in vocational educational training or deemed to be engaged in work by reason of subparagraph (C) of this paragraph.

“(d) WORK ACTIVITIES DEFINED.—As used in this section, the term ‘work activities’ means—

“(1) unsubsidized employment;

“(2) subsidized private sector employment;

“(3) subsidized public sector employment;

“(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

“(5) on-the-job training;

“(6) job search and job readiness assistance;

“(7) community service programs;

“(8) vocational educational training (not to exceed 12 months with respect to any individual);

“(9) job skills training directly related to employment;

“(10) education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

“(11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and

“(12) the provision of child care services to an individual who is participating in a community service program.

“(e) PENALTIES AGAINST INDIVIDUALS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if an individual in a family receiving assistance under the State program funded under this part refuses to engage in work required in accordance with this section, the State shall—

“(A) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the individual so refuses; or

“(B) terminate such assistance, subject to such good cause and other exceptions as the State may establish.

“(2) EXCEPTION.—Notwithstanding paragraph (1), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an individual to work if the individual is a single custodial parent caring for a child who has not attained 6 years of age, and the individual proves that the individual has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

“(A) Unavailability of appropriate child care within a reasonable distance from the individual’s home or work site.

“(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

“(C) Unavailability of appropriate and affordable formal child care arrangements.

“(f) NONDISPLACEMENT IN WORK ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal



Government may fill a vacant employment position in order to engage in a work activity described in subsection (d).

“(2) NO FILLING OF CERTAIN VACANCIES.—No adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—

“(A) when any other individual is on layoff from the same or any substantially equivalent job; or

“(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

“(3) GRIEVANCE PROCEDURE.—A State with a program funded under this part shall establish and maintain a grievance procedure for resolving complaints of alleged violations of paragraph (2).

“(4) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

“(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

“(h) SENSE OF THE CONGRESS THAT STATES SHOULD IMPOSE CERTAIN REQUIREMENTS ON NONCUSTODIAL, NONSUPPORTING MINOR PARENTS.—It is the sense of the Congress that the States should require noncustodial, nonsupporting parents who have not attained 18 years of age to fulfill community work obligations and attend appropriate parenting or money management classes after school.

“(i) REVIEW OF IMPLEMENTATION OF STATE WORK PROGRAMS.—During fiscal year 1999, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate shall hold hearings and engage in other appropriate activities to review the implementation of this section by the States, and shall invite the Governors of the States to testify before them regarding such implementation. Based on such hearings, such Committees may introduce such legislation as may be appropriate to remedy any problems with the State programs operated pursuant to this section.

42 USC 608.

#### “SEC. 408. PROHIBITIONS; REQUIREMENTS.

“(a) IN GENERAL.—

“(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family—

“(A) unless the family includes—

“(i) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

“(ii) a pregnant individual; and

“(B) if the family includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after

the date the State program funded under this part commences (unless an exception described in subparagraph (B), (C), or (D) of paragraph (7) applies).

“(2) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NON-COOPERATION IN ESTABLISHING PATERNITY OR OBTAINING CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child of the individual, and the individual does not qualify for any good cause or other exception established by the State pursuant to section 454(29), then the State—

“(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part an amount equal to not less than 25 percent of the amount of such assistance; and

“(B) may deny the family any assistance under the State program.

“(3) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

“(A) IN GENERAL.—A State to which a grant is made under section 403 shall require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the family leaves the program, shall not apply with respect to any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by—

“(i) September 30, 2000, if the assignment is executed on or after October 1, 1997, and before October 1, 2000; or

“(ii) the date the family leaves the program, if the assignment is executed on or after October 1, 2000.

“(B) LIMITATION.—A State to which a grant is made under section 403 shall not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family leaves the program.

“(4) NO ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school

education (or its equivalent), if the individual does not participate in—

“(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

“(B) an alternative educational or training program that has been approved by the State.

“(5) NO ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

“(A) IN GENERAL.—

“(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

“(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual described in this clause is an individual who—

“(I) has not attained 18 years of age; and

“(II) is not married, and has a minor child in his or her care.

“(B) EXCEPTION.—

“(i) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in clause (ii), the State agency referred to in section 402(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part attributable to funds provided by the Federal Government (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

“(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

“(I) the individual has no parent, legal guardian, or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

“(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the

individual to live in the home of such parent, guardian, or relative;

“(III) the State agency determines that—

“(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual’s own parent or legal guardian; or

“(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual’s own parent or legal guardian; or

“(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

“(iii) SECOND-CHANCE HOME.—For purposes of this subparagraph, the term ‘second-chance home’ means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

“(6) NO MEDICAL SERVICES.—

“(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide medical services.

“(B) EXCEPTION FOR PREPREGNANCY FAMILY PLANNING SERVICES.—As used in subparagraph (A), the term ‘medical services’ does not include prepregnancy family planning services.

“(7) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

“(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part commences, subject to this paragraph.

“(B) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual who is a parent or pregnant has received assistance under the State program funded under this part, the State shall disregard any month for which such assistance was provided with respect to the individual and during which the individual was—

“(i) a minor child; and

“(ii) not the head of a household or married to the head of a household.

“(C) HARDSHIP EXCEPTION.—

“(i) IN GENERAL.—The State may exempt a family from the application of subparagraph (A) by reason

of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

"(ii) LIMITATION.—The number of families with respect to which an exemption made by a State under clause (i) is in effect for a fiscal year shall not exceed 20 percent of the average monthly number of families to which assistance is provided under the State program funded under this part.

"(iii) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of clause (i), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—

"(I) physical acts that resulted in, or threatened to result in, physical injury to the individual;

"(II) sexual abuse;

"(III) sexual activity involving a dependent child;

"(IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

"(V) threats of, or attempts at, physical or sexual abuse;

"(VI) mental abuse; or

"(VII) neglect or deprivation of medical care.

"(D) DISREGARD OF MONTHS OF ASSISTANCE RECEIVED BY ADULT WHILE LIVING ON AN INDIAN RESERVATION OR IN AN ALASKAN NATIVE VILLAGE WITH 50 PERCENT UNEMPLOYMENT.—In determining the number of months for which an adult has received assistance under the State program funded under this part, the State shall disregard any month during which the adult lived on an Indian reservation or in an Alaskan Native village if, during the month—

"(i) at least 1,000 individuals were living on the reservation or in the village; and

"(ii) at least 50 percent of the adults living on the reservation or in the village were unemployed.

"(E) RULE OF INTERPRETATION.—Subparagraph (A) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

"(F) RULE OF INTERPRETATION.—This part shall not be interpreted to prohibit any State from expending State funds not originating with the Federal Government on benefits for children or families that have become ineligible for assistance under the State program funded under this part by reason of subparagraph (A).

"(8) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—A State to which a grant is made under section 403 shall not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under pro-

grams that are funded under this title, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI. The preceding sentence shall not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

“(9) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

“(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to any individual who is—

“(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

“(ii) violating a condition of probation or parole imposed under Federal or State law.

The preceding sentence shall not apply with respect to conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

“(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—If a State to which a grant is made under section 403 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

“(i) the recipient—

“(I) is described in subparagraph (A); or

“(II) has information that is necessary for the officer to conduct the official duties of the officer; and

“(ii) the location or apprehension of the recipient is within such official duties.

“(10) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—

“(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days as the State may provide for in the State plan submitted pursuant to section 402.

“(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause

exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 402.

“(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part of the absence of the minor child from the home for the period specified in or provided for pursuant to subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

“(11) MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR CERTAIN FAMILIES HAVING EARNINGS FROM EMPLOYMENT OR CHILD SUPPORT.—

“(A) EARNINGS FROM EMPLOYMENT.—A State to which a grant is made under section 403 and which has a State plan approved under title XIX shall provide that in the case of a family that is treated (under section 1931(b)(1)(A) for purposes of title XIX) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid because of hours of or income from employment of the caretaker relative (as defined under this part as in effect on such date) or because of section 402(a)(8)(B)(ii)(II) (as so in effect), and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1925 or 1902(e)(1) (as applicable), and that the family will be appropriately notified of such extension as required by section 1925(a)(2).

“(B) CHILD SUPPORT.—A State to which a grant is made under section 403 and which has a State plan approved under title XIX shall provide that in the case of a family that is treated (under section 1931(b)(1)(A) for purposes of title XIX) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid as a result (wholly or partly) of the collection of child or spousal support under part D and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1931(c)(1).

“(b) INDIVIDUAL RESPONSIBILITY PLANS.—

“(1) ASSESSMENT.—The State agency responsible for administering the State program funded under this part shall make an initial assessment of the skills, prior work experience, and employability of each recipient of assistance under the program who—

“(A) has attained 18 years of age; or

“(B) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

“(2) CONTENTS OF PLANS.—

“(A) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, may develop an individual responsibility plan for the individual, which—

“(i) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

“(ii) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

“(iii) to the greatest extent possible is designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

“(iv) describes the services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

“(v) may require the individual to undergo appropriate substance abuse treatment.

“(B) TIMING.—The State agency may comply with paragraph (1) with respect to an individual—

“(i) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of aid under the State plan approved under part A (as in effect immediately before such effective date); or

“(ii) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

“(3) PENALTY FOR NONCOMPLIANCE BY INDIVIDUAL.—In addition to any other penalties required under the State program funded under this part, the State may reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State program to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

“(4) STATE DISCRETION.—The exercise of the authority of this subsection shall be within the sole discretion of the State.



“(c) NONDISCRIMINATION PROVISIONS.—The following provisions of law shall apply to any program or activity which receives funds provided under this part:

“(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

“(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

“(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

“(d) ALIENS.—For special rules relating to the treatment of aliens, see section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

42 USC 609.

**“SEC. 409. PENALTIES.**

“(a) IN GENERAL.—Subject to this section:

“(1) USE OF GRANT IN VIOLATION OF THIS PART.—

“(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

“(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

“(2) FAILURE TO SUBMIT REQUIRED REPORT.—

“(A) IN GENERAL.—If the Secretary determines that a State has not, within 1 month after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

“(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report if the State submits the report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the report was required.

“(3) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

“(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than the applicable percentage of the State family assistance grant.

“(B) APPLICABLE PERCENTAGE DEFINED.—As used in subparagraph (A), the term ‘applicable percentage’ means, with respect to a State—

“(i) if a penalty was not imposed on the State under subparagraph (A) for the immediately preceding fiscal year, 5 percent; or

“(ii) if a penalty was imposed on the State under subparagraph (A) for the immediately preceding fiscal year, the lesser of—

“(I) the percentage by which the grant payable to the State under section 403(a)(1) was reduced for such preceding fiscal year, increased by 2 percentage points; or

“(II) 21 percent.

“(C) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of non-compliance, and may reduce the penalty if the noncompliance is due to circumstances that caused the State to become a needy State (as defined in section 403(b)(6)) during the fiscal year.

“(4) FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

“(5) FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

“(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

“(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

“(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for fiscal year 1998, 1999, 2000, 2001, 2002, or 2003 by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

“(B) DEFINITIONS.—As used in this paragraph:

“(i) QUALIFIED STATE EXPENDITURES.—

“(I) IN GENERAL.—The term ‘qualified State expenditures’ means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

“(aa) Cash assistance.

“(bb) Child care assistance.

“(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

“(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

“(ee) Any other use of funds allowable under section 404(a)(1).

“(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

“(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this part; or

“(bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to the expenditures.

“(III) ELIGIBLE FAMILIES.—As used in subclause (I), the term ‘eligible families’ means families eligible for assistance under the State program funded under this part, and families that would be eligible for such assistance but for the application of section 408(a)(7) of this Act or section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

“(ii) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means for fiscal years 1997 through 2002, 80 percent (or, if the State meets the

requirements of section 407(a) for the fiscal year, 75 percent) reduced (if appropriate) in accordance with subparagraph (C)(ii).

“(iii) HISTORIC STATE EXPENDITURES.—The term ‘historic State expenditures’ means, with respect to a State, the lesser of—

“(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

“(II) the amount which bears the same ratio to the amount described in subclause (I) as—

“(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

“(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

“(iv) EXPENDITURES BY THE STATE.—The term ‘expenditures by the State’ does not include—

“(I) any expenditures from amounts made available by the Federal Government;

“(II) any State funds expended for the medic-aid program under title XIX;

“(III) any State funds which are used to match Federal funds; or

“(IV) any State funds which are expended as a condition of receiving Federal funds under Federal programs other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of such expenditures does not exceed an amount equal to the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).

“(8) SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

“(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter

throughout which the program is found to be in substantial compliance with such requirements by—

“(i) not less than 1 nor more than 2 percent;

“(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or

“(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.

“(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.

“(9) FAILURE TO COMPLY WITH 5-YEAR LIMIT ON ASSISTANCE.—If the Secretary determines that a State has not complied with section 408(a)(1)(B) during a fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 5 percent of the State family assistance grant.

“(10) FAILURE OF STATE RECEIVING AMOUNTS FROM CONTINGENCY FUND TO MAINTAIN 100 PERCENT OF HISTORIC EFFORT.—If, at the end of any fiscal year during which amounts from the Contingency Fund for State Welfare Programs have been paid to a State, the Secretary finds that the expenditures under the State program funded under this part for the fiscal year (excluding any amounts made available by the Federal Government) are less than 100 percent of historic State expenditures (as defined in paragraph (7)(B)(iii) of this subsection), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by the total of the amounts so paid to the State.

“(11) FAILURE TO MAINTAIN ASSISTANCE TO ADULT SINGLE CUSTODIAL PARENT WHO CANNOT OBTAIN CHILD CARE FOR CHILD UNDER AGE 6.—

“(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has violated section 407(e)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

“(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of non-compliance.

“(12) FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—If the grant payable to a State under section 403(a)(1) for a fiscal year is reduced by reason of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the total amount of such reductions.

“(b) REASONABLE CAUSE EXCEPTION.—

“(1) IN GENERAL.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

“(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to any penalty under paragraph (7) or (8) of subsection (a).

“(c) CORRECTIVE COMPLIANCE PLAN.—

“(1) IN GENERAL.—

“(A) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under subsection (a) with respect to a violation of this part, the Secretary shall notify the State of the violation and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct the violation and how the State will insure continuing compliance with this part.

“(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—During the 60-day period that begins on the date the State receives a notice provided under subparagraph (A) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct the violation.

“(C) CONSULTATION ABOUT MODIFICATIONS.—During the 60-day period that begins with the date the Secretary receives a corrective compliance plan submitted by a State in accordance with subparagraph (B), the Secretary may consult with the State on modifications to the plan.

“(D) ACCEPTANCE OF PLAN.—A corrective compliance plan submitted by a State in accordance with subparagraph (B) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during 60-day period that begins on the date the plan is submitted.

“(2) EFFECT OF CORRECTING VIOLATION.—The Secretary may not impose any penalty under subsection (a) with respect to any violation covered by a State corrective compliance plan accepted by the Secretary if the State corrects the violation pursuant to the plan.

“(3) EFFECT OF FAILING TO CORRECT VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under subsection (a) with respect to a violation if the State does not, in a timely manner, correct the violation pursuant to a State corrective compliance plan accepted by the Secretary.

“(4) INAPPLICABILITY TO FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR A STATE WELFARE PROGRAM.—This subsection shall not apply to the imposition of a penalty against a State under subsection (a)(6).

“(d) LIMITATION ON AMOUNT OF PENALTIES.—

“(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

“(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) of this subsection prevents the Secretary from recovering during a fiscal year the full amount of penalties imposed on a State under subsection (a) of this

section for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year.

42 USC 610.

**"SEC. 410. APPEAL OF ADVERSE DECISION.**

"(a) IN GENERAL.—Within 5 days after the date the Secretary takes any adverse action under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse action, including any action with respect to the State plan submitted under section 402 or the imposition of a penalty under section 409.

**"(b) ADMINISTRATIVE REVIEW.—**

"(1) IN GENERAL.—Within 60 days after the date a State receives notice under subsection (a) of an adverse action, the State may appeal the action, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.

"(2) PROCEDURAL RULES.—The Board shall consider an appeal filed by a State under paragraph (1) on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse action or any portion of such an action, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under paragraph (1) not less than 60 days after the date the appeal is filed.

**"(c) JUDICIAL REVIEW OF ADVERSE DECISION.—**

"(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board under this section with respect to an adverse action taken against a State, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

"(B) the United States District Court for the District of Columbia.

"(2) PROCEDURAL RULES.—The district court in which an action is filed under paragraph (1) shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

42 USC 611.

**"SEC. 411. DATA COLLECTION AND REPORTING.****"(a) QUARTERLY REPORTS BY STATES.—****"(1) GENERAL REPORTING REQUIREMENT.—**

"(A) CONTENTS OF REPORT.—Each eligible State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following disaggregated case record information on the families receiving assistance under the State program funded under this part:

"(i) The county of residence of the family.

"(ii) Whether a child receiving such assistance or an adult in the family is disabled.

"(iii) The ages of the members of such families.

"(iv) The number of individuals in the family, and the relation of each family member to the youngest child in the family.

"(v) The employment status and earnings of the employed adult in the family.

"(vi) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.

"(vii) The race and educational status of each adult in the family.

"(viii) The race and educational status of each child in the family.

"(ix) Whether the family received subsidized housing, medical assistance under the State plan approved under title XIX, food stamps, or subsidized child care, and if the latter 2, the amount received.

"(x) The number of months that the family has received each type of assistance under the program.

"(xi) If the adults participated in, and the number of hours per week of participation in, the following activities:

"(I) Education.

"(II) Subsidized private sector employment.

"(III) Unsubsidized employment.

"(IV) Public sector employment, work experience, or community service.

"(V) Job search.

"(VI) Job skills training or on-the-job training.

"(VII) Vocational education.

"(xii) Information necessary to calculate participation rates under section 407.

"(xiii) The type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions).

"(xiv) Any amount of unearned income received by any member of the family.

"(xv) The citizenship of the members of the family.

"(xvi) From a sample of closed cases, whether the family left the program, and if so, whether the family left due to—

"(I) employment;

"(II) marriage;

"(III) the prohibition set forth in section 408(a)(7);

"(IV) sanction; or

"(V) State policy.

"(B) USE OF ESTIMATES.—

"(i) AUTHORITY.—A State may comply with subparagraph (A) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods approved by the Secretary.

"(ii) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary



deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

“(2) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.

“(3) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.

“(4) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by paragraph (1) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 407(d)) during the quarter.

“(5) REPORT ON TRANSITIONAL SERVICES.—The report required by paragraph (1) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

“(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to define the data elements with respect to which reports are required by this subsection.

“(b) ANNUAL REPORTS TO THE CONGRESS BY THE SECRETARY.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

“(1) whether the States are meeting—

“(A) the participation rates described in section 407(a); and

“(B) the objectives of—

“(i) increasing employment and earnings of needy families, and child support collections; and

“(ii) decreasing out-of-wedlock pregnancies and child poverty;

“(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

“(3) the characteristics of each State program funded under this part; and

“(4) the trends in employment and earnings of needy families with minor children living at home.

42 USC 612.

**“SEC. 412. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.**

“(a) GRANTS FOR INDIAN TRIBES.—

“(1) TRIBAL FAMILY ASSISTANCE GRANT.—

“(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal

year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 403(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

“(B) AMOUNT DETERMINED.—

“(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 (as in effect during such fiscal year) for fiscal year 1994 attributable to expenditures (other than child care expenditures) by the State or States under parts A and F (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C) of this section.

“(ii) USE OF STATE SUBMITTED DATA.—

“(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).

“(II) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

“(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

“(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

“(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term ‘eligible Indian tribe’ means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during fiscal year 1995).

“(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

“(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

“(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

“(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

“(A) outlines the Indian tribe’s approach to providing welfare-related services for the 3-year period, consistent with this section;

“(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

“(C) identifies the population and service area or areas to be served by such plan;

“(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

“(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

“(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

“(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

“(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

“(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

“(1) consistent with the purposes of this section;

“(2) consistent with the economic conditions and resources available to each tribe; and

“(3) similar to comparable provisions in section 407(e).

“(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

“(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

“(1) generally accepted accounting principles; and

“(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(f) PENALTIES.—

“(1) Subsections (a)(1), (a)(6), and (b) of section 409, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

“(2) Section 409(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting ‘meet minimum work participation requirements established under section 412(c)’ for ‘comply with section 407(a)’.

“(g) DATA COLLECTION AND REPORTING.—Section 411 shall apply to an Indian tribe with an approved tribal family assistance plan.

“(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and such Indian tribes.

“(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

**“SEC. 413. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.**

42 USC 613.

“(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 409.

“(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

“(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

“(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

“(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

“(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

“(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance.

In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

“(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

“(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

“(1) ANNUAL RANKING OF STATES.—

“(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 403 based on the following ranking factors:

“(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

“(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

“(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

“(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) with respect to a State for the most recent fiscal year for which such information is available and the ratio with respect to the State for the immediately preceding year.

“(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

“(f) STATE-INITIATED EVALUATIONS.—A State shall be eligible to receive funding to evaluate the State program funded under this part if—

“(1) the State submits a proposal to the Secretary for the evaluation;

“(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States; and

“(3) unless otherwise waived by the Secretary, the State contributes to the cost of the evaluation, from non-Federal sources, an amount equal to at least 10 percent of the cost of the evaluation.

“(g) REPORT ON CIRCUMSTANCES OF CERTAIN CHILDREN AND FAMILIES.—

“(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committees on Ways and Means and on Economic and Educational Opportunities

of the House of Representatives and to the Committees on Finance and on Labor and Resources of the Senate annual reports that examine in detail the matters described in paragraph (2) with respect to each of the following groups for the period after such enactment:

“(A) Individuals who were children in families that have become ineligible for assistance under a State program funded under this part by reason of having reached a time limit on the provision of such assistance.

“(B) Children born after such date of enactment to parents who, at the time of such birth, had not attained 20 years of age.

“(C) Individuals who, after such date of enactment, became parents before attaining 20 years of age.

“(2) MATTERS DESCRIBED.—The matters described in this paragraph are the following:

“(A) The percentage of each group that has dropped out of secondary school (or the equivalent), and the percentage of each group at each level of educational attainment.

“(B) The percentage of each group that is employed.

“(C) The percentage of each group that has been convicted of a crime or has been adjudicated as a delinquent.

“(D) The rate at which the members of each group are born, or have children, out-of-wedlock, and the percentage of each group that is married.

“(E) The percentage of each group that continues to participate in State programs funded under this part.

“(F) The percentage of each group that has health insurance provided by a private entity (broken down by whether the insurance is provided through an employer or otherwise), the percentage that has health insurance provided by an agency of government, and the percentage that does not have health insurance.

“(G) The average income of the families of the members of each group.

“(H) Such other matters as the Secretary deems appropriate.

“(h) FUNDING OF STUDIES AND DEMONSTRATIONS.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$15,000,000 for each of fiscal years 1997 through 2002 for the purpose of paying—

“(A) the cost of conducting the research described in subsection (a);

“(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

“(C) the Federal share of any State-initiated study approved under subsection (f); and

“(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

“(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

“(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

“(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

“(3) DEMONSTRATIONS OF INNOVATIVE STRATEGIES.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies which—

“(A) provide one-time capital funds to establish, expand, or replicate programs;

“(B) test performance-based grant-to-loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a prorated basis; and

“(C) test strategies in multiple States and types of communities.

“(i) CHILD POVERTY RATES.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this part, and annually thereafter, the chief executive officer of each State shall submit to the Secretary a statement of the child poverty rate in the State as of such date of enactment or the date of the most recent prior statement under this paragraph.

“(2) SUBMISSION OF CORRECTIVE ACTION PLAN.—Not later than 90 days after the date a State submits a statement under paragraph (1) which indicates that, as a result of the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the child poverty rate of the State has increased by 5 percent or more since the most recent prior statement under paragraph (1), the State shall prepare and submit to the Secretary a corrective action plan in accordance with paragraph (3).

“(3) CONTENTS OF PLAN.—A corrective action plan submitted under paragraph (2) shall outline the manner in which the State will reduce the child poverty rate in the State. The plan shall include a description of the actions to be taken by the State under such plan.

“(4) COMPLIANCE WITH PLAN.—A State that submits a corrective action plan that the Secretary has found contains the information required by this subsection shall implement the corrective action plan until the State determines that the child poverty rate in the State is less than the lowest child poverty rate on the basis of which the State was required to submit the corrective action plan.

“(5) METHODOLOGY.—The Secretary shall prescribe regulations establishing the methodology by which a State shall determine the child poverty rate in the State. The methodology shall take into account factors including the number of children who receive free or reduced-price lunches, the number of food stamp households, and the county-by-county estimates of children in poverty as determined by the Census Bureau.

Regulations.

42 USC 614.

#### “SEC. 414. STUDY BY THE CENSUS BUREAU.

“(a) IN GENERAL.—The Bureau of the Census shall continue to collect data on the 1992 and 1993 panels of the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact

of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low-income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells, and shall obtain information about the status of children participating in such panels.

“(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 for payment to the Bureau of the Census to carry out subsection (a).

“SEC. 415. WAIVERS.

42 USC 615.

“(a) CONTINUATION OF WAIVERS.—

“(1) WAIVERS IN EFFECT ON DATE OF ENACTMENT OF WELFARE REFORM.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), if any waiver granted to a State under section 1115 of this Act or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1996) is in effect as of the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (other than by section 103(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the waiver.

“(B) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in subparagraph (A) shall be entitled to payment under section 403 for the fiscal year, in lieu of any other payment provided for in the waiver.

“(2) WAIVERS GRANTED SUBSEQUENTLY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), if any waiver granted to a State under section 1115 of this Act or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1996) is submitted to the Secretary before the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and approved by the Secretary on or before July 1, 1997, and the State demonstrates to the satisfaction of the Secretary that the waiver will not result in Federal expenditures under title IV of this Act (as in effect without regard to the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) that are greater than would occur in the absence of the waiver, the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (other than by section 103(c) of the Personal Responsibility and Work



Opportunity Reconciliation Act of 1996) shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 are inconsistent with the waiver.

“(B) NO EFFECT ON NEW WORK REQUIREMENTS.—Notwithstanding subparagraph (A), a waiver granted under section 1115 or otherwise which relates to the provision of assistance under a State program funded under this part (as in effect on September 30, 1996) shall not affect the applicability of section 407 to the State.

“(b) STATE OPTION TO TERMINATE WAIVER.—

“(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

“(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of the waiver.

“(3) HOLD HARMLESS PROVISION.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B) of this paragraph, submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the waiver.

“(B) DATE DESCRIBED.—The date described in this subparagraph is 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

“(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue the waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of the waiver.

“(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue 1 or more individual waivers described in subsection (a).

42 USC 616.

#### “SEC. 416. ADMINISTRATION.

“The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law, and the Secretary shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, and by an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount

appropriated for any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, as such amount relates to the total amount appropriated for use by such Department, and, notwithstanding any other provision of law, the Secretary shall take such actions as may be necessary, including reductions in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services by 245 full-time equivalent positions related to the program converted into a block grant under the amendment made by section 2103 of the Personal Responsibility and Work Opportunity Act of 1996, and by 60 full-time equivalent managerial positions in the Department.

**“SEC. 417. LIMITATION ON FEDERAL AUTHORITY.**

42 USC 617.

“No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.”; and

(2) by inserting after such section 418 the following:

**“SEC. 419. DEFINITIONS.**

42 USC 619.

“As used in this part:

“(1) **ADULT.**—The term ‘adult’ means an individual who is not a minor child.

“(2) **MINOR CHILD.**—The term ‘minor child’ means an individual who—

“(A) has not attained 18 years of age; or

“(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

“(3) **FISCAL YEAR.**—The term ‘fiscal year’ means any 12-month period ending on September 30 of a calendar year.

“(4) **INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the terms ‘Indian’, ‘Indian tribe’, and ‘tribal organization’ have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(B) **SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.**—The term ‘Indian tribe’ means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

“(i) Arctic Slope Native Association.

“(ii) Kawerak, Inc.

“(iii) Maniilaq Association.

“(iv) Association of Village Council Presidents.

“(v) Tanana Chiefs Conference.

“(vi) Cook Inlet Tribal Council.

“(vii) Bristol Bay Native Association.

“(viii) Aleutian and Pribilof Island Association.

“(ix) Chugachmuit.

“(x) Tlingit Haida Central Council.

“(xi) Kodiak Area Native Association.

“(xii) Copper River Native Association.

"(5) STATE.—Except as otherwise specifically provided, the term 'State' means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa."

(b) GRANTS TO OUTLYING AREAS.—Section 1108 (42 U.S.C. 1308) is amended—

- (1) by striking subsections (d) and (e);
- (2) by redesignating subsection (c) as subsection (f); and
- (3) by striking all that precedes subsection (c) and inserting the following:

**"SEC. 1108. ADDITIONAL GRANTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA; LIMITATION ON TOTAL PAYMENTS.**

"(a) LIMITATION ON TOTAL PAYMENTS TO EACH TERRITORY.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, under parts A and E of title IV, and under subsection (b) of this section, for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(b) ENTITLEMENT TO MATCHING GRANT.—

"(1) IN GENERAL.—Each territory shall be entitled to receive from the Secretary for each fiscal year a grant in an amount equal to 75 percent of the amount (if any) by which—

"(A) the total expenditures of the territory during the fiscal year under the territory programs funded under parts A and E of title IV; exceeds

"(B) the sum of—

"(i) the amount of the family assistance grant payable to the territory without regard to section 409; and

"(ii) the total amount expended by the territory during fiscal year 1995 pursuant to parts A and F of title IV (as so in effect), other than for child care.

"(2) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1997 through 2002, such sums as are necessary for grants under this paragraph.

"(c) DEFINITIONS.—As used in this section:

"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (e), and reduced by the amount of any penalty imposed on the territory under any provision of law specified in subsection (a) during the fiscal year.

"(3) FAMILY ASSISTANCE GRANT.—The term 'family assistance grant' has the meaning given such term by section 403(a)(1)(B).

"(4) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—

"(A) \$107,255,000 with respect to Puerto Rico;

"(B) \$4,686,000 with respect to Guam;

“(C) \$3,554,000 with respect to the Virgin Islands; and

“(D) \$1,000,000 with respect to American Samoa.

“(5) TOTAL AMOUNT EXPENDED BY THE TERRITORY.—The term ‘total amount expended by the territory’—

“(A) does not include expenditures during the fiscal year from amounts made available by the Federal Government; and

“(B) when used with respect to fiscal year 1995, also does not include—

“(i) expenditures during fiscal year 1995 under subsection (g) or (i) of section 402 (as in effect on September 30, 1995); or

“(ii) any expenditures during fiscal year 1995 for which the territory (but for section 1108, as in effect on September 30, 1995) would have received reimbursement from the Federal Government.

“(d) AUTHORITY TO TRANSFER FUNDS TO CERTAIN PROGRAMS.—A territory to which an amount is paid under subsection (b) of this section may use the amount in accordance with section 404(d).

“(e) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—

“(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds

“(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1).”

(c) ELIMINATION OF CHILD CARE PROGRAMS UNDER THE SOCIAL SECURITY ACT.—

(1) AFDC AND TRANSITIONAL CHILD CARE PROGRAMS.—Section 402 (42 U.S.C. 602) is amended by striking subsection (g).

(2) AT-RISK CHILD CARE PROGRAM.—

(A) AUTHORIZATION.—Section 402 (42 U.S.C. 602) is amended by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 (42 U.S.C. 603) is amended by striking subsection (n).

**SEC. 104. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.** 42 USC 604a.

(a) IN GENERAL.—

(1) STATE OPTIONS.—A State may—

(A) administer and provide services under the programs described in subparagraphs (A) and (B)(i) of paragraph (2) through contracts with charitable, religious, or private organizations; and

(B) provide beneficiaries of assistance under the programs described in subparagraphs (A) and (B)(ii) of paragraph (2) with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the following programs:

(A) A State program funded under part A of title IV of the Social Security Act (as amended by section 103(a) of this Act).

(B) Any other program established or modified under title I or II of this Act, that—

(i) permits contracts with organizations; or

(ii) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing assistance.

Contracts.

(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow States to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2), on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—In the event a State exercises its authority under subsection (a), religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in subsection (k), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) RELIGIOUS CHARACTER AND FREEDOM.—

(1) RELIGIOUS ORGANIZATIONS.—A religious organization with a contract described in subsection (a)(1)(A), or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1)(B), shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

(1) IN GENERAL.—If an individual described in paragraph (2) has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2), the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider

that is accessible to the individual and the value of which is not less than the value of the assistance which the individual would have received from such organization.

(2) **INDIVIDUAL DESCRIBED.**—An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2).

(f) **EMPLOYMENT PRACTICES.**—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a)(2).

(g) **NONDISCRIMINATION AGAINST BENEFICIARIES.**—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(h) **FISCAL ACCOUNTABILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), any religious organization contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(2) **LIMITED AUDIT.**—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(i) **COMPLIANCE.**—Any party which seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

(j) **LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.**—No funds provided directly to institutions or organizations to provide services and administer programs under subsection (a)(1)(A) shall be expended for sectarian worship, instruction, or proselytization.

(k) **PREEMPTION.**—Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

**SEC. 105. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR THEIR GRANDCHILDREN.**

13 USC 141 note.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, in carrying out section 141 of title 13, United States Code, shall expand the data collection efforts of the Bureau of the Census (in this section referred to as the "Bureau") to enable the Bureau to collect statistically significant data, in connection with its decennial census and its mid-decade census, concerning the growing trend of grandparents who are the primary caregivers for their grandchildren.

(b) **EXPANDED CENSUS QUESTION.**—In carrying out subsection (a), the Secretary of Commerce shall expand the Bureau's census question that details households which include both grandparents and their grandchildren. The expanded question shall be formulated to distinguish between the following households:

(1) A household in which a grandparent temporarily provides a home for a grandchild for a period of weeks or months during periods of parental distress.

(2) A household in which a grandparent provides a home for a grandchild and serves as the primary caregiver for the grandchild.

#### SEC. 106. REPORT ON DATA PROCESSING.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and

(2) what would be required to establish a system capable of—

(A) tracking participants in public programs over time; and

(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.

(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—

(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and

(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

42 USC 613 note.

#### SEC. 107. STUDY ON ALTERNATIVE OUTCOMES MEASURES.

(a) STUDY.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of the States in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 407 of the Social Security Act. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and a preliminary assessment of the effects of section 409(a)(7)(C) of such Act.

(b) REPORT.—Not later than September 30, 1998, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the findings of the study required by subsection (a).

#### SEC. 108. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(A) by inserting “an agency administering a program funded under part A of title IV or” before “an agency operating”; and

(B) by striking “A or D of title IV of this Act” and inserting “D of such title”.

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting “under a State program funded under” before “part A of title IV”.

(b) AMENDMENTS TO PART B OF TITLE IV.—Section 422(b)(2) (42 U.S.C. 622(b)(2)) is amended—

(1) by striking “plan approved under part A of this title” and inserting “program funded under part A”; and

(2) by striking “part E of this title” and inserting “under the State plan approved under part E”.

(c) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking “aid” and inserting “assistance under a State program funded”.

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking “aid to families with dependent children” and inserting “assistance under a State program funded under part A”; and

(B) by striking “such aid” and inserting “such assistance”; and

(C) by striking “under section 402(a)(26) or” and inserting “pursuant to section 408(a)(3) or under section”.

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking “aid under a State plan approved” and inserting “assistance under a State program funded”; and

(B) by striking “in accordance with the standards referred to in section 402(a)(26)(B)(ii)” and inserting “by the State”.

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking “aid under the State plan approved under part A” and inserting “assistance under the State program funded under part A”.

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking “1115(c)” and inserting “1115(b)”.

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking “aid is being paid under the State’s plan approved under part A or E” and inserting “assistance is being provided under the State program funded under part A”.

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking “aid was being paid under the State’s plan approved under part A or E” and inserting “assistance was being provided under the State program funded under part A”.

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking “who is a dependent child” and inserting “with respect to whom assistance is being provided under the State program funded under part A”; and

(B) by inserting “by the State” after “found”; and

(C) by striking “to have good cause for refusing to cooperate under section 402(a)(26)” and inserting “to qualify for a good cause or other exception to cooperation pursuant to section 454(29)”.

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking “under section 402(a)(26)” and inserting “pursuant to section 408(a)(3)”.



- (10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".
- (11) Section 454(5)(A) (42 U.S.C. 654(5)(A)) is amended—  
 (A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(3)"; and  
 (B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;" and inserting a comma.
- (12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".
- (13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".
- (14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26)" and inserting "408(a)(3)".
- (15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".
- (16) Section 469(a) (42 U.S.C. 669(a)) is amended—  
 (A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and  
 (B) by striking "such aid" and inserting "such assistance".
- (d) AMENDMENTS TO PART E OF TITLE IV.—
- (1) Section 470 (42 U.S.C. 670) is amended—  
 (A) by striking "would be" and inserting "would have been"; and  
 (B) by inserting "(as such plan was in effect on June 1, 1995)" after "part A".
- (2) Section 471(a)(17) (42 U.S.C. 671(a)(17)) is amended by striking "plans approved under parts A and D" and inserting "program funded under part A and plan approved under part D".
- (3) Section 472(a) (42 U.S.C. 672(a)) is amended—  
 (A) in the matter preceding paragraph (1)—  
 (i) by striking "would meet" and inserting "would have met";  
 (ii) by inserting "(as such sections were in effect on June 1, 1995)" after "407"; and  
 (iii) by inserting "(as so in effect)" after "406(a)"; and  
 (B) in paragraph (4)—  
 (i) in subparagraph (A)—  
 (I) by inserting "would have" after "(A)"; and  
 (II) by inserting "(as in effect on June 1, 1995)" after "section 402"; and  
 (ii) in subparagraph (B)(ii), by inserting "(as in effect on June 1, 1995)" after "406(a)".
- (4) Section 472(h) (42 U.S.C. 672(h)) is amended to read as follows:
- "(h)(1) For purposes of title XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and deemed to be a recipient

of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

“(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child’s minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.”.

(5) Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by inserting “(as such sections were in effect on June 1, 1995)” after “407”;

(ii) by inserting “(as so in effect)” after “specified in section 406(a)”; and

(iii) by inserting “(as such section was in effect on June 1, 1995)” after “403”;

(B) in subparagraph (B)(i)—

(i) by inserting “would have” after “(B)(i)”; and

(ii) by inserting “(as in effect on June 1, 1995)” after “section 402”; and

(C) in subparagraph (B)(ii)(II), by inserting “(as in effect on June 1, 1995)” after “406(a)”.

(6) Section 473(b) (42 U.S.C. 673(b)) is amended to read as follows:

“(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

“(2) For purposes of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

“(3) A child described in this paragraph is any child—

“(A)(i) who is a child described in subsection (a)(2), and

“(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

“(B) with respect to whom foster care maintenance payments are being made under section 472.

“(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child’s minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.”.

(e) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681-687) is repealed.

(f) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking “aid to families with dependent children under the State plan approved under section 402 of this Act” and inserting “assistance under a State program funded under part A of title IV”.

(g) AMENDMENTS TO TITLE XI.—

(1) Section 1109 (42 U.S.C. 1309) is amended by striking “or part A of title IV,”.

(2) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting “(A)” after “(2)”;

(ii) by striking “403,”;

(iii) by striking the period at the end and inserting “, and”;

(iv) by adding at the end the following new subparagraph:

“(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part.”;

(B) in subsection (c)(3), by striking “the program of aid to families with dependent children” and inserting “part A of such title”; and

(C) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking “or part A of title IV,”; and

(B) in subsection (a)(3), by striking “404,”.

(4) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking “403(a),”;

(B) by striking “and part A of title IV,”; and

(C) by striking “, and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV”.

(5) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking “or part A of title IV”; and

(B) by striking “403(a),”.

(6) Section 1133(a) (42 U.S.C. 1320b-3(a)) is amended by striking “or part A of title IV,”.

(7) Section 1136 (42 U.S.C. 1320b-6) is repealed.

(8) Section 1137 (42 U.S.C. 1320b-7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) any State program funded under part A of title IV of this Act,”; and

(B) in subsection (d)(1)(B)—

(i) by striking “In this subsection—” and all that follows through “(ii) in” and inserting “In this subsection, in”;

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(h) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking “aid to families with dependent children under the State plan approved under section 402 of this Act” and inserting “assistance under a State program funded under part A of title IV”.

(i) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking “aid under the State plan approved” and inserting “assistance under a State program funded”.

(j) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: “(A) a State program funded under part A of title IV,”.

(k) AMENDMENT TO TITLE XIX.—Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking “1108(c)” and inserting “1108(f)”.

**SEC. 109. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.**

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking “plan approved” and all that follows through “title IV of the Social Security Act” and inserting “program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)”;

(2) in subsection (d)—

(A) in paragraph (5), by striking “assistance to families with dependent children” and inserting “assistance under a State program funded”; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking “plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)” and inserting “program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)”; and

(4) by striking subsection (m).

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking “the State plan approved” and inserting “the State program funded”; and

(2) in subsection (e)(6), by striking “aid to families with dependent children” and inserting “benefits under a State program funded”.

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking “State plans under the Aid to Families with Dependent Children Program under” and inserting “State programs funded under part A of”.

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking “to aid to families with dependent children under part A of title IV of the Social Security Act” and inserting “or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)”; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

“(I) The Secretary may not grant a waiver under this paragraph on or after the date of enactment of this subparagraph. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on the day before such date.”;

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking “operating—” and all that follows through “(ii) any other” and inserting “operating any”; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “(b)(1) A household” and inserting “(b) A household”; and

(ii) in subparagraph (B), by striking “training program” and inserting “activity”;

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-186; 7 U.S.C. 612c note) is amended by striking “the program for aid to families with dependent children” and inserting “the State program funded”.

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking “program for aid to families with dependent children” and inserting “State program funded”; and

(ii) by inserting before the period at the end the following: “that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995”; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking “an AFDC assistance unit (under the aid to families with dependent children program authorized” and inserting “a family (under the State program funded”; and

(II) by striking “, in a State” and all that follows through “9902(2)))” and inserting “that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995”; and

(ii) in subparagraph (B), by striking “aid to families with dependent children” and inserting “assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable

to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

#### SEC. 110. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94-566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act, shall be considered to constitute expenses incurred in the administration of such State plan."

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking “aid to families with dependent children under a State plan approved” and inserting “assistance under a State program funded”; and

(2) in subsection (c), by striking “aid to families with dependent children in the State under a State plan approved” and inserting “assistance in the State under a State program funded”.

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a-23(c)(3)), by striking “(Aid to Families with Dependent Children)”; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking “aid to families with dependent children under a State plan approved” and inserting “assistance under a State program funded”.

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking “The program for aid to dependent children” and inserting “The State program funded”;

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking “the program for aid to families with dependent children” and inserting “the State program funded”; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking “the program for aid to families with dependent children” and inserting “the State program funded”.

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking “Aid to Families with Dependent Children program” and inserting “State program funded under part A of title IV of the Social Security Act”;

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking “the program of aid to families with dependent children under a State plan approved under” and inserting “a State program funded under part A of”; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking “Aid to Families with Dependent Children benefits” and inserting “assistance under a State program funded under part A of title IV of the Social Security Act”; and

(B) in subparagraph (B)(viii), by striking “Aid to Families with Dependent Children” and inserting “assistance under the State program funded under part A of title IV of the Social Security Act”.

(k) The 4th proviso of chapter VII of title I of Public Law 99-88 (25 U.S.C. 13d-1) is amended to read as follows: “*Provided further*, That general assistance payments made by the Bureau of Indian Affairs shall be made—

“(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

“(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act, except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance pay-

ments in such State by the same percentage as the State has reduced the AFDC or State program payment.”.

(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows “agency as” and inserting “being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.”;

(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking “eligibility for aid or services,” and all that follows through “children approved” and inserting “eligibility for assistance, or the amount of such assistance, under a State program funded”;

(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking “aid to families with dependent children provided under a State plan approved” and inserting “a State program funded”;

(4) in section 6103(l)(10) (26 U.S.C. 6103(l)(10))—

(A) by striking “(c) or (d)” each place it appears and inserting “(c), (d), or (e)”; and

(B) by adding at the end of subparagraph (B) the following new sentence: “Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.”;

(5) in section 6103(p)(4) (26 U.S.C. 6103(p)(4)), in the matter preceding subparagraph (A)—

(A) by striking “(5), (10)” and inserting “(5)”; and

(B) by striking “(9), or (12)” and inserting “(9), (10), or (12)”;

(6) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking “(relating to aid to families with dependent children)”;

(7) in section 6402 (26 U.S.C. 6402)—

(A) in subsection (a), by striking “(c) and (d)” and inserting “(c), (d), and (e)”;

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

“(e) COLLECTION OF OVERPAYMENTS UNDER TITLE IV—A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).”; and

(8) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking “aid to families with dependent children” and inserting “assistance under a State program funded under part A of title IV of the Social Security Act”.

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking “State plan approved under part A of title IV” and inserting “State program funded under part A of title IV”.



(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking “(42 U.S.C. 601 et seq.)”;

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking “State aid to families with dependent children records,” and inserting “records collected under the State program funded under part A of title IV of the Social Security Act,”;

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking “the JOBS program” and inserting “the work activities required under title IV of the Social Security Act”; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking “, including recipients under the JOBS program”;

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking “(such as the JOBS program)” each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

“(4) the portions of title IV of the Social Security Act relating to work activities;”;

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking “the JOBS program or” each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking “(such as the JOBS program)” each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking “and the JOBS program” each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

“(6) the portion of title IV of the Social Security Act relating to work activities;”;

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking “and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))”;

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking “JOBS and”;

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking “the JOBS program,”;

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking “aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)” and inserting “assistance under the State program funded under part A of title IV of the Social Security Act”;

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking “aid to families with dependent children” and inserting “assistance under the State program funded”;

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking “aid to families with dependent children” and inserting “assistance under the State program funded”; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting “; and”; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

“(iv) assistance under a State program funded under part A of title IV of the Social Security Act;”.

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

“(i) assistance under the State program funded under part A of title IV of the Social Security Act;”.

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking “(A)”; and

(2) by striking subparagraphs (B) and (C).

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in the first section 255(h) (2 U.S.C. 905(h)), by striking “Aid to families with dependent children (75-0412-0-1-609);” and inserting “Block grants to States for temporary assistance for needy families;”; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking “aid under a State plan approved under” each place it appears and inserting “assistance under a State program funded under”; and

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking “program of aid to families with dependent children” and inserting “State program of assistance”; and

(B) in paragraph (2)(B), by striking “aid to families with dependent children” and inserting “assistance under a State program funded under part A of title IV of the Social Security Act”; and

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking “State plan approved” and inserting “State program funded”.

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking “program of aid to families with dependent children under a State plan approved” and inserting “State program of assistance funded”.

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

“(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;”.

(w) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking “section 464 or 1137 of the Social Security

Act” and inserting “section 404(e), 464, or 1137 of the Social Security Act”.

42 USC 405 note. **SEC. 111. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.**

(a) **DEVELOPMENT.**—

(1) **IN GENERAL.**—The Commissioner of Social Security (in this section referred to as the “Commissioner”) shall, in accordance with this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) **ASSISTANCE BY ATTORNEY GENERAL.**—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to enable the Commissioner to comply with this section.

(b) **STUDY AND REPORT.**—

(1) **IN GENERAL.**—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) **ELEMENTS OF STUDY.**—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3-, 5-, and 10-year period. The study shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3-, 5-, and 10-year phase-in options.

(3) **DISTRIBUTION OF REPORT.**—The Commissioner shall submit copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year after the date of the enactment of this Act.

**SEC. 112. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.**

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is amended—

(1) in the heading, by striking “**DEMONSTRATION**”;

(2) by striking “demonstration” each place such term appears;

(3) in subsection (a), by striking “in each of fiscal years” and all that follows through “10” and inserting “shall enter into agreements with”;

(4) in subsection (b)(3), by striking “aid to families with dependent children under part A of title IV of the Social Security Act” and inserting “assistance under the program funded part A of title IV of the Social Security Act of the State in which the individual resides”;

(5) in subsection (c)—

(A) in paragraph (1)(C), by striking “aid to families with dependent children under title IV of the Social Security Act” and inserting “assistance under a State program funded part A of title IV of the Social Security Act”;

(B) in paragraph (2), by striking “aid to families with dependent children under title IV of such Act” and inserting “assistance under a State program funded part A of title IV of the Social Security Act”;

(6) in subsection (d), by striking “job opportunities and basic skills training program (as provided for under title IV of the Social Security Act)” and inserting “the State program funded under part A of title IV of the Social Security Act”; and

(7) by striking subsections (e) through (g) and inserting the following:

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of conducting projects under this section, there is authorized to be appropriated an amount not to exceed \$25,000,000 for any fiscal year.”.

#### **SEC. 113. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Commissioner of Social Security, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal proposing such technical and conforming amendments as are necessary to bring the law into conformity with the policy embodied in this title.

#### **SEC. 114. ASSURING MEDICAID COVERAGE FOR LOW-INCOME FAMILIES.**

(a) **IN GENERAL.**—Title XIX is amended—

(1) by redesignating section 1931 as section 1932; and 42 USC 1396v.

(2) by inserting after section 1930 the following new section:

##### **“ASSURING COVERAGE FOR CERTAIN LOW-INCOME FAMILIES**

**“SEC. 1931. (a) REFERENCES TO TITLE IV—A ARE REFERENCES TO PRE-WELFARE-REFORM PROVISIONS.**—Subject to the succeeding provisions of this section, with respect to a State any reference in this title (or any other provision of law in relation to the operation of this title) to a provision of part A of title IV, or a State plan under such part (or a provision of such a plan), including income and resource standards and income and resource methodologies under such part or plan, shall be considered a reference to such a provision or plan as in effect as of July 16, 1996, with respect to the State. 42 USC 1396u-1.

**“(b) APPLICATION OF PRE-WELFARE-REFORM ELIGIBILITY CRITERIA.**—

**“(1) IN GENERAL.**—For purposes of this title, subject to paragraphs (2) and (3), in determining eligibility for medical assistance—

**“(A) an individual shall be treated as receiving aid or assistance under a State plan approved under part A of title IV only if the individual meets—**

“(i) the income and resource standards for determining eligibility under such plan, and

“(ii) the eligibility requirements of such plan under subsections (a) through (c) of section 406 and section 407(a),

as in effect as of July 16, 1996; and

“(B) the income and resource methodologies under such plan as of such date shall be used in the determination of whether any individual meets income and resource standards under such plan.

“(2) STATE OPTION.—For purposes of applying this section, a State—

“(A) may lower its income standards applicable with respect to part A of title IV, but not below the income standards applicable under its State plan under such part on May 1, 1988;

“(B) may increase income or resource standards under the State plan referred to in paragraph (1) over a period (beginning after July 16, 1996) by a percentage that does not exceed the percentage increase in the Consumer Price Index for all urban consumers (all items; United States city average) over such period; and

“(C) may use income and resource methodologies that are less restrictive than the methodologies used under the State plan under such part as of July 16, 1996.

“(3) OPTION TO TERMINATE MEDICAL ASSISTANCE FOR FAILURE TO MEET WORK REQUIREMENT.—

“(A) INDIVIDUALS RECEIVING CASH ASSISTANCE UNDER TANF.—In the case of an individual who—

“(i) is receiving cash assistance under a State program funded under part A of title IV,

“(ii) is eligible for medical assistance under this title on a basis not related to section 1902(l), and

“(iii) has the cash assistance under such program terminated pursuant to section 407(e)(1)(B) (as in effect on or after the welfare reform effective date) because of refusing to work,

the State may terminate such individual's eligibility for medical assistance under this title until such time as there no longer is a basis for the termination of such cash assistance because of such refusal.

“(B) EXCEPTION FOR CHILDREN.—Subparagraph (A) shall not be construed as permitting a State to terminate medical assistance for a minor child who is not the head of a household receiving assistance under a State program funded under part A of title IV.

“(c) TREATMENT FOR PURPOSES OF TRANSITIONAL COVERAGE PROVISIONS.—

“(1) TRANSITION IN THE CASE OF CHILD SUPPORT COLLECTIONS.—The provisions of section 406(h) (as in effect on July 16, 1996) shall apply, in relation to this title, with respect to individuals (and families composed of individuals) who are described in subsection (b)(1)(A), in the same manner as they applied before such date with respect to individuals who became ineligible for aid to families with dependent children as a result (wholly or partly) of the collection of child or spousal support under part D of title IV.

“(2) TRANSITION IN THE CASE OF EARNINGS FROM EMPLOYMENT.—For continued medical assistance in the case of individuals (and families composed of individuals) described in subsection (b)(1)(A) who would otherwise become ineligible because of hours or income from employment, see sections 1925 and 1902(e)(1).

“(d) WAIVERS.—In the case of a waiver of a provision of part A of title IV in effect with respect to a State as of July 16, 1996, or which is submitted to the Secretary before the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and approved by the Secretary on or before July 1, 1997, if the waiver affects eligibility of individuals for medical assistance under this title, such waiver may (but need not) continue to be applied, at the option of the State, in relation to this title after the date the waiver would otherwise expire.

“(e) STATE OPTION TO USE 1 APPLICATION FORM.—Nothing in this section, or part A of title IV, shall be construed as preventing a State from providing for the same application form for assistance under a State program funded under part A of title IV (on or after the welfare reform effective date) and for medical assistance under this title.

“(f) ADDITIONAL RULES OF CONSTRUCTION.—

“(1) With respect to the reference in section 1902(a)(5) to a State plan approved under part A of title IV, a State may treat such reference as a reference either to a State program funded under such part (as in effect on and after the welfare reform effective date) or to the State plan under this title.

“(2) Any reference in section 1902(a)(55) to a State plan approved under part A of title IV shall be deemed a reference to a State program funded under such part.

“(3) In applying section 1903(f), the applicable income limitation otherwise determined shall be subject to increase in the same manner as income or resource standards of a State may be increased under subsection (b)(2)(B).

“(g) RELATION TO OTHER PROVISIONS.—The provisions of this section shall apply notwithstanding any other provision of this Act.

“(h) TRANSITIONAL INCREASED FEDERAL MATCHING RATE FOR INCREASED ADMINISTRATIVE COSTS.—

“(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall provide that with respect to administrative expenditures described in paragraph (2) the per centum specified in section 1903(a)(7) shall be increased to such percentage as the Secretary specifies.

“(2) ADMINISTRATIVE EXPENDITURES DESCRIBED.—The administrative expenditures described in this paragraph are expenditures described in section 1903(a)(7) that a State demonstrates to the satisfaction of the Secretary are attributable to administrative costs of eligibility determinations that (but for the enactment of this section) would not be incurred.

“(3) LIMITATION.—The total amount of additional Federal funds that are expended as a result of the application of this subsection for the period beginning with fiscal year 1997 and ending with fiscal year 2000 shall not exceed \$500,000,000. In applying this paragraph, the Secretary shall ensure the equitable distribution of additional funds among the States.

“(4) TIME LIMITATION.—This subsection shall only apply with respect to a State for expenditures incurred during the first 12 calendar quarters in which the State program funded under part A of title IV (as in effect on and after the welfare reform effective date) is in effect.

“(i) WELFARE REFORM EFFECTIVE DATE.—In this section, the term ‘welfare reform effective date’ means the effective date, with respect to a State, of title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as specified in section 116 of such Act).”.

(b) PLAN AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking “and” at the end of paragraph (61),

(2) by striking the period at the end of paragraph (62) and inserting “; and”, and

(3) by inserting after paragraph (62) the following new paragraph:

“(63) provide for administration and determinations of eligibility with respect to individuals who are (or seek to be) eligible for medical assistance based on the application of section 1931.”.

(c) EXTENSION OF WORK TRANSITION PROVISIONS.—Sections 1902(e)(1)(B) and 1925(f) (42 U.S.C. 1396a(e)(1)(B), 1396r-6(f)) are each amended by striking “1998” and inserting “2001”.

(d) ELIMINATION OF REQUIREMENT OF MINIMUM AFDC PAYMENT LEVELS.—(1) Section 1902(c) (42 U.S.C. 1396a(c)) is amended by striking “if—” and all that follows and inserting the following: “if the State requires individuals described in subsection (1)(1) to apply for assistance under the State program funded under part A of title IV as a condition of applying for or receiving medical assistance under this title.”.

(2) Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (9).

42 USC 862a.

#### **SEC. 115. DENIAL OF ASSISTANCE AND BENEFITS FOR CERTAIN DRUG-RELATED CONVICTIONS.**

(a) IN GENERAL.—An individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))) shall not be eligible for—

(1) assistance under any State program funded under part A of title IV of the Social Security Act, or

(2) benefits under the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977.

(b) EFFECTS ON ASSISTANCE AND BENEFITS FOR OTHERS.—

(1) PROGRAM OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The amount of assistance otherwise required to be provided under a State program funded under part A of title IV of the Social Security Act to the family members of an individual to whom subsection (a) applies shall be reduced by the amount which would have otherwise been made available to the individual under such part.

(2) BENEFITS UNDER THE FOOD STAMP ACT OF 1977.—The amount of benefits otherwise required to be provided to a household under the food stamp program (as defined in section

3(h) of the Food Stamp Act of 1977), or any State program carried out under the Food Stamp Act of 1977, shall be determined by considering the individual to whom subsection (a) applies not to be a member of such household, except that the income and resources of the individual shall be considered to be income and resources of the household.

(c) **ENFORCEMENT.**—A State that has not exercised its authority under subsection (d)(1)(A) shall require each individual applying for assistance or benefits referred to in subsection (a), during the application process, to state, in writing, whether the individual, or any member of the household of the individual, has been convicted of a crime described in subsection (a).

(d) **LIMITATIONS.**—

(1) **STATE ELECTIONS.**—

(A) **OPT OUT.**—A State may, by specific reference in a law enacted after the date of the enactment of this Act, exempt any or all individuals domiciled in the State from the application of subsection (a).

(B) **LIMIT PERIOD OF PROHIBITION.**—A State may, by law enacted after the date of the enactment of this Act, limit the period for which subsection (a) shall apply to any or all individuals domiciled in the State.

(2) **INAPPLICABILITY TO CONVICTIONS OCCURRING ON OR BEFORE ENACTMENT.**—Subsection (a) shall not apply to convictions occurring on or before the date of the enactment of this Act.

(e) **DEFINITIONS OF STATE.**—For purposes of this section, the term “State” has the meaning given it—

(1) in section 419(5) of the Social Security Act, when referring to assistance provided under a State program funded under part A of title IV of the Social Security Act, and

(2) in section 3(m) of the Food Stamp Act of 1977, when referring to the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977.

(f) **RULE OF INTERPRETATION.**—Nothing in this section shall be construed to deny the following Federal benefits:

(1) Emergency medical services under title XIX of the Social Security Act.

(2) Short-term, noncash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of communicable diseases if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Prenatal care.

(5) Job training programs.

(6) Drug treatment programs.

#### **SEC. 116. EFFECTIVE DATE; TRANSITION RULE.**

42 USC 601 note.

(a) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on July 1, 1997.

(2) **DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.**—Notwithstanding any other provision of this section, paragraphs (2), (3), (4), (5), (8), and (10) of section 409(a) and section



411(a) of the Social Security Act (as added by the amendments made by section 103(a) of this Act) shall not take effect with respect to a State until, and shall apply only with respect to conduct that occurs on or after, the later of—

(A) July 1, 1997; or

(B) the date that is 6 months after the date the Secretary of Health and Human Services receives from the State a plan described in section 402(a) of the Social Security Act (as added by such amendment).

(3) GRANTS TO OUTLYING AREAS.—The amendments made by section 103(b) shall take effect on October 1, 1996.

(4) ELIMINATION OF CHILD CARE PROGRAMS.—The amendments made by section 103(c) shall take effect on October 1, 1996.

(5) DEFINITIONS APPLICABLE TO NEW CHILD CARE ENTITLEMENT.—Sections 403(a)(1)(C), 403(a)(1)(D), and 419(4) of the Social Security Act, as added by the amendments made by section 103(a) of this Act, shall take effect on October 1, 1996.

(b) TRANSITION RULES.—Effective on the date of the enactment of this Act:

(1) STATE OPTION TO ACCELERATE EFFECTIVE DATE.—

(A) IN GENERAL.—If the Secretary of Health and Human Services receives from a State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 103(a)(1) of this Act), then—

(i) on and after the date of such receipt—

(I) except as provided in clause (ii), this title and the amendments made by this title (other than by section 103(c) of this Act) shall apply with respect to the State; and

(II) the State shall be considered an eligible State for purposes of part A of title IV of the Social Security Act (as in effect pursuant to the amendments made by such section 103(a)); and

(ii) during the period that begins on the date of such receipt and ends on June 30, 1997, there shall remain in effect with respect to the State—

(I) section 403(h) of the Social Security Act (as in effect on September 30, 1995); and

(II) all State reporting requirements under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995), modified by the Secretary as appropriate, taking into account the State program under part A of title IV of the Social Security Act (as in effect pursuant to the amendments made by such section 103(a)).

(B) LIMITATIONS ON FEDERAL OBLIGATIONS.—

(i) UNDER AFDC PROGRAM.—The total obligations of the Federal Government to a State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures in fiscal year 1997 shall not exceed an amount equal to the State family assistance grant.

(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 403(a)(1) of the Social Security Act (as in effect pursuant to the amendments

made by section 103(a) of this Act), the total obligations of the Federal Government to a State under such section 403(a)(1)—

(I) for fiscal year 1996, shall be an amount equal to—

(aa) the State family assistance grant; multiplied by

(bb)  $\frac{1}{366}$  of the number of days during the period that begins on the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 103(a)(1) of this Act) and ends on September 30, 1996; and

(II) for fiscal year 1997, shall be an amount equal to the lesser of—

(aa) the amount (if any) by which the State family assistance grant exceeds the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures in fiscal year 1997; or

(bb) the State family assistance grant, multiplied by  $\frac{1}{365}$  of the number of days during the period that begins on October 1, 1996, or the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 103(a)(1) of this Act), whichever is later, and ends on September 30, 1997.

(iii) CHILD CARE OBLIGATIONS EXCLUDED IN DETERMINING FEDERAL AFDC OBLIGATIONS.—As used in this subparagraph, the term “obligations of the Federal Government to the State under part A of title IV of the Social Security Act” does not include any obligation of the Federal Government with respect to child care expenditures by the State.

(C) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 OR 1997 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA AND TERMINATION OF AFDC ENTITLEMENT.—The submission of a plan by a State pursuant to subparagraph (A) is deemed to constitute—

(i) the State's acceptance of the grant reductions under subparagraph (B) (including the formula for computing the amount of the reduction); and

(ii) the termination of any entitlement of any individual or family to benefits or services under the State AFDC program.

(D) DEFINITIONS.—As used in this paragraph:

(i) STATE AFDC PROGRAM.—The term “State AFDC program” means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).

(ii) STATE.—The term “State” means the 50 States and the District of Columbia.

(iii) STATE FAMILY ASSISTANCE GRANT.—The term “State family assistance grant” means the State family assistance grant (as defined in section 403(a)(1)(B) of the Social Security Act, as added by the amendment made by section 103(a)(1) of this Act).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this title shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this title under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS TITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made with respect to State expenditures under a State plan approved under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to assistance or services provided on or before September 30, 1995, shall be treated as claims with respect to expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. Each State shall complete the filing of all claims under the State plan (as so in effect) within 2 years after the date of the enactment of this Act. The head of each Federal department shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs under such State plans; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than from funds authorized by this title.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this title, is serving as Assistant Secretary for Family Support within the Department of Health and Human Services shall, until a successor is appointed to such position—

(A) continue to serve in such position; and

(B) except as otherwise provided by law—

(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and

(ii) have the powers and duties of the Assistant Secretary for Family Support under section 416 of the Social Security Act (as in effect pursuant to the amendment made by section 103(a)(1) of this Act).

(c) TERMINATION OF ENTITLEMENT UNDER AFDC PROGRAM.—Effective October 1, 1996, no individual or family shall be entitled to any benefits or services under any State plan approved under

part A or F of title IV of the Social Security Act (as in effect on September 30, 1995).

## **TITLE II—SUPPLEMENTAL SECURITY INCOME**

### **SEC. 200. REFERENCE TO SOCIAL SECURITY ACT.**

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

### **Subtitle A—Eligibility Restrictions**

#### **SEC. 201. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTA- NEOUSLY IN 2 OR MORE STATES.**

(a) **IN GENERAL.**—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 105(b)(4)(A) of the Contract with America Advancement Act of 1996, is amended by redesignating paragraph (5) as paragraph (3) and by adding at the end the following new paragraph:

“(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this title during the 10-year period that begins on the date the person is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the person in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.

“(B) As soon as practicable after the conviction of a person in a Federal or State court as described in subparagraph (A), an official of such court shall notify the Commissioner of such conviction.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act.

42 USC 1382  
note.

#### **SEC. 202. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.**

(a) **IN GENERAL.**—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 201(a) of this Act, is amended by adding at the end the following new paragraph:

“(5) No person shall be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

“(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

“(B) violating a condition of probation or parole imposed under Federal or State law.”.

(b) EXCHANGE OF INFORMATION.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 201(a) of this Act and subsection (a) of this section, is amended by adding at the end the following new paragraph:

“(6) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the recipient, and notifies the Commissioner that—

“(A) the recipient—

“(i) is described in subparagraph (A) or (B) of paragraph (5); and

“(ii) has information that is necessary for the officer to conduct the officer’s official duties; and

“(B) the location or apprehension of the recipient is within the officer’s official duties.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 203. TREATMENT OF PRISONERS.

(a) IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF BENEFITS TO PRISONERS.—

(1) IN GENERAL.—Section 1611(e)(1) (42 U.S.C. 1382(e)(1)) is amended by adding at the end the following new subparagraph:

“(I)(i) The Commissioner shall enter into an agreement, with any interested State or local institution described in clause (i) or (ii) of section 202(x)(1)(A) the primary purpose of which is to confine individuals as described in section 202(x)(1)(A), under which—

“(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the inmates of the institution as the Commissioner may require for the purpose of carrying out paragraph (1); and

“(II) the Commissioner shall pay to any such institution, with respect to each inmate of the institution who is eligible for a benefit under this title for the month preceding the first month throughout which such inmate is in such institution and becomes ineligible for such benefit as a result of the application of this subparagraph, \$400 if the institution furnishes the information described in subclause (I) to the Commissioner within 30 days after the date such individual becomes an inmate of such institution, or \$200 if the institution furnishes such information after 30 days after such date but within 90 days after such date.

42 USC 1382  
note.

Contracts.

“(ii)(I) The provisions of section 552a of title 5, United States Code, shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.

“(II) The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any Federal or federally-assisted cash, food, or medical assistance program for eligibility purposes.

“(iii) Payments to institutions required by clause (i)(II) shall be made from funds otherwise available for the payment of benefits under this title and shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the seventh month beginning after the month in which this Act is enacted.

42 USC 1382  
note.

(b) STUDY OF OTHER POTENTIAL IMPROVEMENTS IN THE COLLECTION OF INFORMATION RESPECTING PUBLIC INMATES.—

42 USC 1382  
note.

(1) STUDY.—The Commissioner of Social Security shall conduct a study of the desirability, feasibility, and cost of—

(A) establishing a system under which Federal, State, and local courts would furnish to the Commissioner such information respecting court orders by which individuals are confined in jails, prisons, or other public penal, correctional, or medical facilities as the Commissioner may require for the purpose of carrying out section 1611(e)(1) of the Social Security Act; and

(B) requiring that State and local jails, prisons, and other institutions that enter into agreements with the Commissioner under section 1611(e)(1)(I) of the Social Security Act furnish the information required by such agreements to the Commissioner by means of an electronic or other sophisticated data exchange system.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall submit a report on the results of the study conducted pursuant to this subsection to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) ADDITIONAL REPORT TO CONGRESS.—Not later than October 1, 1998, the Commissioner of Social Security shall provide to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a list of the institutions that are and are not providing information to the Commissioner under section 1611(e)(1)(I) of the Social Security Act (as added by this section).

42 USC 1382  
note.

#### SEC. 204. EFFECTIVE DATE OF APPLICATION FOR BENEFITS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 1611(c)(7) (42 U.S.C. 1382(c)(7)) are amended to read as follows:

“(A) the first day of the month following the date such application is filed, or

“(B) the first day of the month following the date such individual becomes eligible for such benefits with respect to such application.”

(b) SPECIAL RULE RELATING TO EMERGENCY ADVANCE PAYMENTS.—Section 1631(a)(4)(A) (42 U.S.C. 1383(a)(4)(A)) is amended—

(1) by inserting “for the month following the date the application is filed” after “is presumptively eligible for such benefits”; and

(2) by inserting “, which shall be repaid through proportionate reductions in such benefits over a period of not more than 6 months” before the semicolon.

(c) CONFORMING AMENDMENTS.—

(1) Section 1614(b) (42 U.S.C. 1382c(b)) is amended—

(A) by striking “or requests” and inserting “, on the first day of the month following the date the application is filed, or, in any case in which either spouse requests”; and

(B) by striking “application or”.

42 USC 1383.

(2) Section 1631(g)(3) (42 U.S.C. 1382j(g)(3)) is amended by inserting “following the month” after “beginning with the month”.

42 USC 1382  
note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to applications for benefits under title XVI of the Social Security Act filed on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term “benefits under title XVI of the Social Security Act” includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

## Subtitle B—Benefits for Disabled Children

### SEC. 211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 105(b)(1) of the Contract with America Advancement Act of 1996, is amended—

(1) in subparagraph (A), by striking “An individual” and inserting “Except as provided in subparagraph (C), an individual”;

(2) in subparagraph (A), by striking “(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)”;

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

“(C)(i) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

“(ii) Notwithstanding clause (i), no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled.”; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking “(D)” and inserting “(E)”.

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavioral function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—

42 USC 1382c.

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following new subparagraph:

“(A) in the case of an individual who is age 18 or older—”;

(5) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following new subparagraph:

“(B) in the case of an individual who is under the age of 18—

“(i) substantial evidence which demonstrates that there has been medical improvement in the individual’s impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

“(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual’s impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that the individual was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked and severe functional limitations; or”;

(6) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph “in the case of any individual,” before “substantial evidence”; and

(7) in the first sentence following subparagraph (C) (as redesignated by paragraph (6)), by—

(A) inserting “(i)” before “to restore”; and



(B) inserting “, or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual’s impairment or combination of impairments so that it no longer results in marked and severe functional limitations” immediately before the period.

42 USC 1382c  
note.

(d) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) SUBSECTIONS (a) AND (b).—

(i) IN GENERAL.—The provisions of, and amendments made by, subsections (a) and (b) of this section shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title XVI of the Social Security Act on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(ii) DETERMINATION OF FINAL ADJUDICATION.—For purposes of clause (i), no individual’s claim with respect to such benefits may be considered to be finally adjudicated before such date of enactment if, on or after such date, there is pending a request for either administrative or judicial review with respect to such claim that has been denied in whole, or there is pending, with respect to such claim, readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

(B) SUBSECTION (c).—The amendments made by subsection (c) of this section shall apply with respect to benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY REDETERMINATIONS.—During the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is eligible for supplemental security income benefits by reason of disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, or amendments made by, subsections (a) and (b) of this section. With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security

Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a) and (b) of this section, and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after the later of July 1, 1997, or the date of the redetermination with respect to such individual.

(C) NOTICE.—Not later than January 1, 1997, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REPORT.—The Commissioner of Social Security shall report to the Congress regarding the progress made in implementing the provisions of, and amendments made by, this section on child disability evaluations not later than 180 days after the date of the enactment of this Act.

(4) REGULATIONS.—Notwithstanding any other provision of law, the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(5) CAP ADJUSTMENT FOR SSI ADMINISTRATIVE WORK REQUIRED BY WELFARE REFORM.—

(A) AUTHORIZATION.—For the additional costs of continuing disability reviews and redeterminations under title XVI of the Social Security Act, there is hereby authorized to be appropriated to the Social Security Administration, in addition to amounts authorized under section 201(g)(1)(A) of the Social Security Act, \$150,000,000 in fiscal year 1997 and \$100,000,000 in fiscal year 1998.

(B) CAP ADJUSTMENT.—Section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by section 103(b) of the Contract with America Advancement Act of 1996, is amended—

2 USC 901.

(i) in clause (i)—

(I) in subclause (II) by—

(aa) striking “\$25,000,000” and inserting “\$175,000,000”; and

(bb) striking “\$160,000,000” and inserting “\$310,000,000”; and

(II) in subclause (III) by—

(aa) striking “\$145,000,000” and inserting “\$245,000,000”; and

(bb) striking “\$370,000,000” and inserting “\$470,000,000”; and

(ii) by amending clause (ii)(I) to read as follows:

“(I) the term ‘continuing disability reviews’ means reviews or redeterminations as defined under section 201(g)(1)(A) of the Social Security Act and reviews

and redeterminations authorized under section 211 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.”

2 USC 665e.

(C) **ADJUSTMENTS.**—Section 606(e)(1)(B) of the Congressional Budget Act of 1974 is amended by adding at the end the following new sentences: “If the adjustments referred to in the preceding sentence are made for an appropriations measure that is not enacted into law, then the Chairman of the Committee on the Budget of the House of Representatives shall, as soon as practicable, reverse those adjustments. The Chairman of the Committee on the Budget of the House of Representatives shall submit any adjustments made under this subparagraph to the House of Representatives and have such adjustments published in the Congressional Record.”

*Ante*, p. 850.

(D) **CONFORMING AMENDMENT.**—Section 103(d)(1) of the Contract with America Advancement Act of 1996 (42 U.S.C. 401 note) is amended by striking “medicaid programs.” and inserting “medicaid programs, except that the amounts appropriated pursuant to the authorization and discretionary spending allowance provisions in section 211(d)(2)(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall be used only for continuing disability reviews and redeterminations under title XVI of the Social Security Act.”

(6) **BENEFITS UNDER TITLE XVI.**—For purposes of this subsection, the term “benefits under title XVI of the Social Security Act” includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

#### **SEC. 212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.**

(a) **CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.**—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 211(a)(3) of this Act, is amended—

(1) by inserting “(i)” after “(H)”; and

(2) by adding at the end the following new clause:

“(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which is likely to improve (or, at the option of the Commissioner, which is unlikely to improve).

“(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

“(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for pay-

ment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

“(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual’s impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual’s representative payee.”

(b) **DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.**—

(1) **IN GENERAL.**—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:  
“(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

“(I) during the 1-year period beginning on the individual’s 18th birthday; and

“(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.”

(2) **CONFORMING REPEAL.**—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) **CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.**—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

“(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner’s determination that the individual is disabled.

“(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

“(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

“(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the

individual or, if the interest of the individual under this title would be served thereby, to the individual.

“(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual’s impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual’s representative payee.”

42 USC 1382c  
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

#### **SEC. 213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.**

(a) **REQUIREMENT TO ESTABLISH ACCOUNT.**—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

“(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

“(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

“(aa) 6, and

“(bb) the maximum monthly benefit payable under this title to an eligible individual.

“(ii)(I) A representative payee shall use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

“(II) An allowable expense described in this subclause is an expense for—

“(aa) education or job skills training;

“(bb) personal needs assistance;

“(cc) special equipment;

“(dd) housing modification;

“(ee) medical treatment;

“(ff) therapy or rehabilitation; or

“(gg) any other item or service that the Commissioner determines to be appropriate;

provided that such expense benefits such individual and, in the case of an expense described in item (bb), (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

“(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

“(aa) by a representative payee shall be considered a misapplication of benefits for all purposes of this paragraph, and any representative payee who knowingly misapplies benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such benefits; and

“(bb) by an eligible individual who is his or her own payee shall be considered a misapplication of benefits for all purposes of this paragraph and the total amount of such benefits so used shall be considered to be the uncompensated value of a disposed resource and shall be subject to the provisions of section 1613(c).

“(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

“(iii) The representative payee may deposit into the account established pursuant to clause (i)—

“(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

“(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.

“(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).”.

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking “and” at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting “; and”; and

(3) by inserting after paragraph (11) the following new paragraph:

“(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1631(a)(2)(F).”.

(c) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking “and” at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

42 USC 1382a  
note.

**SEC. 214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.**

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended by inserting “or, in the case of an eligible individual who is a child under the age of 18, receiving payments (with

respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B)."

42 USC 1382  
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

42 USC 1382  
note.

#### **SEC. 215. REGULATIONS.**

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

### **Subtitle C—Additional Enforcement Provision**

#### **SEC. 221. INSTALLMENT PAYMENT OF LARGE PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS.**

(a) **IN GENERAL.**—Section 1631(a) (42 U.S.C. 1383) is amended by adding at the end the following new paragraph:

"(10)(A) If an individual is eligible for past-due monthly benefits under this title in an amount that (after any withholding for reimbursement to a State for interim assistance under subsection (g)) equals or exceeds the product of—

"(i) 12, and

"(ii) the maximum monthly benefit payable under this title to an eligible individual (or, if appropriate, to an eligible individual and eligible spouse),  
then the payment of such past-due benefits (after any such reimbursement to a State) shall be made in installments as provided in subparagraph (B).

"(B)(i) The payment of past-due benefits subject to this subparagraph shall be made in not to exceed 3 installments that are made at 6-month intervals.

"(ii) Except as provided in clause (iii), the amount of each of the first and second installments may not exceed an amount equal to the product of clauses (i) and (ii) of subparagraph (A).

"(iii) In the case of an individual who has—

"(I) outstanding debt attributable to—

"(aa) food,

"(bb) clothing,

"(cc) shelter, or

"(dd) medically necessary services, supplies or equipment, or medicine; or

"(II) current expenses or expenses anticipated in the near term attributable to—

"(aa) medically necessary services, supplies or equipment, or medicine, or

"(bb) the purchase of a home, and

such debt or expenses are not subject to reimbursement by a public assistance program, the Secretary under title XVIII, a State plan approved under title XIX, or any private entity legally liable to provide payment pursuant to an insurance policy, pre-paid plan, or other arrangement, the limitation specified in clause (ii) may

be exceeded by an amount equal to the total of such debt and expenses.

“(C) This paragraph shall not apply to any individual who, at the time of the Commissioner’s determination that such individual is eligible for the payment of past-due monthly benefits under this title—

“(i) is afflicted with a medically determinable impairment that is expected to result in death within 12 months; or

“(ii) is ineligible for benefits under this title and the Commissioner determines that such individual is likely to remain ineligible for the next 12 months.

“(D) For purposes of this paragraph, the term ‘benefits under this title’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.”

(b) CONFORMING AMENDMENT.—Section 1631(a)(1) (42 U.S.C. 1383(a)(1)) is amended by inserting “(subject to paragraph (10))” immediately before “in such installments”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section are effective with respect to past-due benefits payable under title XVI of the Social Security Act after the third month following the month in which this Act is enacted.

(2) BENEFITS PAYABLE UNDER TITLE XVI.—For purposes of this subsection, the term “benefits payable under title XVI of the Social Security Act” includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

42 USC 1383  
note.

#### SEC. 222. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

42 USC 1383  
note.

## Subtitle D—Studies Regarding Supplemental Security Income Program

#### SEC. 231. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Title XVI (42 U.S.C. 1381 et seq.), as amended by section 105(b)(3) of the Contract with America Advancement Act of 1996, is amended by adding at the end the following new section:

##### “ANNUAL REPORT ON PROGRAM

“SEC. 1637. (a) Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this title, including—

42 USC 1383f.

“(1) a comprehensive description of the program;

“(2) historical and current data on allowances and denials, including number of applications and allowance rates for initial



determinations, reconsideration determinations, administrative law judge hearings, appeals council reviews, and Federal court decisions;

“(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, disabled adults, and disabled children);

“(4) historical and current data on prior enrollment by recipients in public benefit programs, including State programs funded under part A of title IV of the Social Security Act and State general assistance programs;

“(5) projections of future number of recipients and program costs, through at least 25 years;

“(6) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

“(7) data on the utilization of work incentives;

“(8) detailed information on administrative and other program operation costs;

“(9) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

“(10) State supplementation program operations;

“(11) a historical summary of statutory changes to this title; and

“(12) such other information as the Commissioner deems useful.

“(b) Each member of the Social Security Advisory Board shall be permitted to provide an individual report, or a joint report if agreed, of views of the program under this title, to be included in the annual report required under this section.”.

42 USC 1382  
note.

#### **SEC. 232. STUDY BY GENERAL ACCOUNTING OFFICE.**

Not later than January 1, 1999, the Comptroller General of the United States shall study and report on—

(1) the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act; and

(2) extra expenses incurred by families of children receiving benefits under such title that are not covered by other Federal, State, or local programs.

### **TITLE III—CHILD SUPPORT**

#### **SEC. 300. REFERENCE TO SOCIAL SECURITY ACT.**

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

## Subtitle A—Eligibility for Services; Distribution of Payments

### SEC. 301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

“(4) provide that the State will—

“(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

“(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance are provided under the State program funded under part E of this title, or (III) medical assistance is provided under the State plan approved under title XIX, unless, in accordance with paragraph (29), good cause or other exceptions exist;

“(ii) any other child, if an individual applies for such services with respect to the child; and

“(B) enforce any support obligation established with respect to—

“(i) a child with respect to whom the State provides services under the plan; or

“(ii) the custodial parent of such a child;”;

(2) in paragraph (6)—

(A) by striking “provide that” and inserting “provide that—”;

(B) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;”;

(C) in subparagraph (B), by inserting “on individuals not receiving assistance under any State program funded under part A” after “such services shall be imposed”;

(D) in each of subparagraphs (B), (C), (D), and (E)—

(i) by indenting the subparagraph in the same manner as, and aligning the left margin of the subparagraph with the left margin of, the matter inserted by subparagraph (B) of this paragraph; and

(ii) by striking the final comma and inserting a semicolon; and

(E) in subparagraph (E), by indenting each of clauses

(i) and (ii) 2 additional ems.

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking “and” at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting “; and”; and

(3) by adding after paragraph (24) the following new paragraph:

“(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking “454(6)” and inserting “454(4)”.

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking “454(6)” each place it appears and inserting “454(4)(A)(ii)”.

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking “in the case of overdue support which a State has agreed to collect under section 454(6)” and inserting “in any other case”.

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking “paragraph (4) or (6) of section 454” and inserting “section 454(4)”.

#### SEC. 302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

##### “SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

“(a) IN GENERAL.—Subject to subsection (e), an amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

“(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

“(A) pay to the Federal Government the Federal share of the amount so collected; and

“(B) retain, or distribute to the family, the State share of the amount so collected.

“(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

“(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

“(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

“(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

“(I) PRE-OCTOBER 1997.—Except as provided in subclause (II), the provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and

Work Opportunity Act Reconciliation of 1996 shall apply with respect to the distribution of support arrearages that—

“(aa) accrued after the family ceased to receive assistance, and

“(bb) are collected before October 1, 1997.

“(II) POST-SEPTEMBER 1997.—With respect to the amount so collected on or after October 1, 1997 (or before such date, at the option of the State)—

“(aa) IN GENERAL.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

“(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—After the application of division (aa) and clause (ii)(II)(aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

“(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

“(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED BEFORE THE FAMILY RECEIVED ASSISTANCE.—

“(I) PRE-OCTOBER 2000.—Except as provided in subclause (II), the provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall apply with respect to the distribution of support arrearages that—

“(aa) accrued before the family received assistance, and

“(bb) are collected before October 1, 2000.

“(II) POST-SEPTEMBER 2000.—Unless, based on the report required by paragraph (4), the Congress determines otherwise, with respect to the amount so collected on or after October 1, 2000 (or before such date, at the option of the State)—

“(aa) IN GENERAL.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family

that accrued before the family received assistance from the State.

“(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—After the application of clause (i)(II)(aa) and division (aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

“(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

“(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

“(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent past-due support has been assigned to the State as a condition of receiving assistance from the State, up to the amount necessary to reimburse the State for amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.

“(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, unless an earlier effective date is required by this section, effective October 1, 2000, the State shall treat any support arrearages collected, except for amounts collected pursuant to section 464, as accruing in the following order:

“(I) To the period after the family ceased to receive assistance.

“(II) To the period before the family received assistance.

“(III) To the period while the family was receiving assistance.

“(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

“(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of a family receiving assistance from an Indian tribe, distribute the amount so collected pursuant to an agreement entered into pursuant to a State plan under section 454(33).

“(5) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary’s findings with respect to—

“(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

“(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in moving people off of welfare and keeping them off of welfare;

“(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1996 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

“(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

“(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, shall remain assigned after such date.

“(c) DEFINITIONS.—As used in subsection (a):

“(1) ASSISTANCE.—The term ‘assistance from the State’ means—

“(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996); and

“(B) foster care maintenance payments under the State plan approved under part E of this title.

“(2) FEDERAL SHARE.—The term ‘Federal share’ means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the fiscal year in which the amount is collected.

“(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term ‘Federal medical assistance percentage’ means—

“(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

“(B) the Federal medical assistance percentage (as defined in section 1905(b), as in effect on September 30, 1996) in the case of any other State.

“(4) STATE SHARE.—The term ‘State share’ means 100 percent minus the Federal share.

“(d) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995 (determined in accordance with section 457 as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity

Act of 1996), the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.

“(e) GAP PAYMENTS NOT SUBJECT TO DISTRIBUTION UNDER THIS SECTION.—At State option, this section shall not apply to any amount collected on behalf of a family as support by the State (and paid to the family in addition to the amount of assistance otherwise payable to the family) pursuant to a plan approved under this part if such amount would have been paid to the family by the State under section 402(a)(28), as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. For purposes of subsection (d), the State share of such amount paid to the family shall be considered amounts which could be retained by the State if such payments were reported by the State as part of the State share of amounts collected in fiscal year 1995.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking “section 457(b)(4) or (d)(3)” and inserting “section 457”.

(2) Section 454 (42 U.S.C. 654) is amended—

(A) in paragraph (11)—

(i) by striking “(11)” and inserting “(11)(A)”; and

(ii) by inserting after the semicolon “and”; and

(B) by redesignating paragraph (12) as subparagraph

(B) of paragraph (11).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on October 1, 1996, or earlier at the State’s option.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall become effective on the date of the enactment of this Act.

42 USC 657 note.

**SEC. 303. PRIVACY SAFEGUARDS.**

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 301(b) of this Act, is amended—

(1) by striking “and” at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting “; and”; and

(3) by adding after paragraph (25) the following new paragraph:

“(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

“(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

“(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

“(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) 42 USC 654 note. shall become effective on October 1, 1997.

**SEC. 304. RIGHTS TO NOTIFICATION OF HEARINGS.**

(a) **IN GENERAL.**—Section 454 (42 U.S.C. 654), as amended by section 302(b)(2) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

“(12) provide for the establishment of procedures to require the State to provide individuals who are applying for or receiving services under the State plan, or who are parties to cases in which services are being provided under the State plan—

“(A) with notice of all proceedings in which support obligations might be established or modified; and

“(B) with a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) 42 USC 654 note. shall become effective on October 1, 1997.

## **Subtitle B—Locate and Case Tracking**

**SEC. 311. STATE CASE REGISTRY.**

Section 454A, as added by section 344(a)(2) of this Act, is amended by adding at the end the following new subsections:

“(e) **STATE CASE REGISTRY.**—

“(1) **CONTENTS.**—The automated system required by this section shall include a registry (which shall be known as the ‘State case registry’) that contains records with respect to—

“(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

“(B) each support order established or modified in the State on or after October 1, 1998.

“(2) **LINKING OF LOCAL REGISTRIES.**—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

“(3) **USE OF STANDARDIZED DATA ELEMENTS.**—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on case status) as the Secretary may require.

“(4) **PAYMENT RECORDS.**—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

“(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;



“(B) any amount described in subparagraph (A) that has been collected;

“(C) the distribution of such collected amounts;

“(D) the birth date of any child for whom the order requires the provision of support; and

“(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

“(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and update, maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

“(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

“(B) information obtained from comparison with Federal, State, or local sources of information;

“(C) information on support collections and distributions; and

“(D) any other relevant information.

“(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

“(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

“(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

“(3) TEMPORARY FAMILY ASSISTANCE AND MEDICAID AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under a State plan approved under title XIX, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

“(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.”.

**SEC. 312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.**

(a) **STATE PLAN REQUIREMENT.**—Section 454 (42 U.S.C. 654), as amended by sections 301(b) and 303(a) of this Act, is amended—

(1) by striking “and” at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting “; and”; and

(3) by adding after paragraph (26) the following new paragraph:

“(27) provide that, on and after October 1, 1998, the State agency will—

“(A) operate a State disbursement unit in accordance with section 454B; and

“(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

“(i) monitor and enforce support collections through the unit in cases being enforced by the State pursuant to section 454(4) (including carrying out the automated data processing responsibilities described in section 454A(g)); and

“(ii) take the actions described in section 466(c)(1) in appropriate cases.”.

(b) **ESTABLISHMENT OF STATE DISBURSEMENT UNIT.**—Part D of title IV (42 U.S.C. 651-669), as amended by section 344(a)(2) of this Act, is amended by inserting after section 454A the following new section:

**“SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.** 42 USC 654b.

“(a) **STATE DISBURSEMENT UNIT.**—

“(1) **IN GENERAL.**—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the ‘State disbursement unit’) for the collection and disbursement of payments under support orders—

“(A) in all cases being enforced by the State pursuant to section 454(4); and

“(B) in all cases not being enforced by the State under this part in which the support order is initially issued in the State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to withholding pursuant to section 466(a)(8)(B).

“(2) **OPERATION.**—The State disbursement unit shall be operated—

“(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

“(B) except in cases described in paragraph (1)(B), in coordination with the automated system established by the State pursuant to section 454A.

“(3) **LINKING OF LOCAL DISBURSEMENT UNITS.**—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than

a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent, except that in cases described in subsection (a)(1)(B), the State disbursement unit shall not be required to convert and maintain in automated form records of payments kept pursuant to section 466(a)(8)(B)(iii) before the effective date of this section.

"(c) TIMING OF DISBURSEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business."

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 344(a)(2) and as amended by section 311 of this Act, is amended by adding at the end the following new subsection:

"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of income—

"(i) within 2 business days after receipt of notice of, and the income source subject to, such withholding from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

“(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.

“(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term ‘business day’ means a day on which State offices are open for regular business.”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1998.

42 USC 654b  
note.

(2) LIMITED EXCEPTION TO UNIT HANDLING PAYMENTS.—Notwithstanding section 454B(b)(1) of the Social Security Act, as added by this section, any State which, as of the date of the enactment of this Act, processes the receipt of child support payments through local courts may, at the option of the State, continue to process through September 30, 1999, such payments through such courts as processed such payments on or before such date of enactment.

#### SEC. 313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), and 312(a) of this Act, is amended—

- (1) by striking “and” at the end of paragraph (26);
- (2) by striking the period at the end of paragraph (27) and inserting “; and”; and
- (3) by adding after paragraph (27) the following new paragraph:

“(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.”.

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

#### “SEC. 453A. STATE DIRECTORY OF NEW HIRES.

42 USC 653a.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—

“(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the ‘State Directory of New Hires’) which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

“(B) STATES WITH NEW HIRE REPORTING LAW IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of subsection (g)(2) not later than October 1, 1997, and the requirements of this section (other than subsection (g)(2)) not later than October 1, 1998.

“(2) DEFINITIONS.—As used in this section:

“(A) EMPLOYEE.—The term ‘employee’—

“(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

“(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

“(B) EMPLOYER.—

“(i) IN GENERAL.—The term ‘employer’ has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

“(ii) LABOR ORGANIZATION.—The term ‘labor organization’ shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a ‘hiring hall’) which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

“(b) EMPLOYER INFORMATION.—

“(1) REPORTING REQUIREMENT.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

“(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

“(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

“(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made—

“(A) not later than 20 days after the date the employer hires the employee; or

“(B) in the case of an employer transmitting reports magnetically or electronically, by 2 monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

“(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W-4 form or, at the option

Notification.

of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

“(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

“(1) \$25; or

“(2) \$500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

“(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

“(f) INFORMATION COMPARISONS.—

“(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

“(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

“(g) TRANSMISSION OF INFORMATION.—

“(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the income of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's income is not subject to withholding pursuant to section 466(b)(3).

“(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

“(A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

“(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such

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information as the Secretary of Health and Human Services shall specify in regulations.

“(3) BUSINESS DAY DEFINED.—As used in this subsection, the term ‘business day’ means a day on which State offices are open for regular business.

“(h) OTHER USES OF NEW HIRE INFORMATION.—

“(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations, and may disclose such information to any agent of the agency that is under contract with the agency to carry out such purposes.

“(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

“(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS’ COMPENSATION.—State agencies operating employment security and workers’ compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.”

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b-7(a)(3)) is amended—

(1) by inserting “(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))” after “employers”; and

(2) by inserting “, and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission” after “paragraph (2)”.

(d) DISCLOSURE TO CERTAIN AGENTS.—Section 303(e) (42 U.S.C. 503(e)) is amended by adding at the end the following:

“(5) A State or local child support enforcement agency may disclose to any agent of the agency that is under contract with the agency to carry out the purposes described in paragraph (1)(B) wage information that is disclosed to an officer or employee of the agency under paragraph (1)(A). Any agent of a State or local child support agency that receives wage information under this paragraph shall comply with the safeguards established pursuant to paragraph (1)(B).”

#### SEC. 314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

“(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

“(B) Procedures under which the income of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages

occur, without the need for a judicial or administrative hearing.”

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking “subsection (a)(1)” and inserting “subsection (a)(1)(A)”.

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

“(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies—

“(i) that the withholding has commenced; and

“(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

“(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).”

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows “administered by” and inserting “the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.”

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking “to the appropriate agency” and all that follows and inserting “to the State disbursement unit within 7 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall withhold funds as directed in the notice, except that when an employer receives an income withholding order issued by another State, the employer shall apply the income withholding law of the state of the obligor’s principal place of employment in determining—

“(I) the employer’s fee for processing an income withholding order;

“(II) the maximum amount permitted to be withheld from the obligor’s income;

“(III) the time periods within which the employer must implement the income withholding order and forward the child support payment;

“(IV) the priorities for withholding and allocating income withheld for multiple child support obligees; and

“(V) any withholding terms or conditions not specified in the order.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.”;

(ii) in clause (ii), by inserting “be in a standard format prescribed by the Secretary, and” after “shall”; and

(iii) by adding at the end the following new clause:



“(iii) As used in this subparagraph, the term ‘business day’ means a day on which State offices are open for regular business.”.

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking “any employer” and all that follows and inserting “any employer who—

“(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

“(ii) fails to withhold support from income or to pay such amounts to the State disbursement unit in accordance with this subsection.”.

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

“(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.”.

(b) DEFINITION OF INCOME.—

(1) IN GENERAL.—Section 466(b)(8) (42 U.S.C. 666(b)(8)) is amended to read as follows:

“(8) For purposes of subsection (a) and this subsection, the term ‘income’ means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker’s compensation, disability, payments pursuant to a pension or retirement program, and interest.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(8)(A), (a)(8)(B)(i), (b)(3)(A), (b)(3)(B), (b)(6)(A)(i), and (b)(6)(C), and (b)(7) of section 466 (42 U.S.C. 666(a)(8)(A), (a)(8)(B)(i), (b)(3)(A), (b)(3)(B), (b)(6)(A)(i), and (b)(6)(C), and (b)(7)) are each amended by striking “wages” each place such term appears and inserting “income”.

(B) Section 466(b)(1) (42 U.S.C. 666(b)(1)) is amended by striking “wages (as defined by the State for purposes of this section)” and inserting “income”.

(c) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

#### SEC. 315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following new paragraph:

“(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.”.

#### SEC. 316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows “subsection (c)” and inserting “, for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing

child support obligations, or enforcing child custody or visitation orders—

“(1) information on, or facilitating the discovery of, the location of any individual—

“(A) who is under an obligation to pay child support or provide child custody or visitation rights;

“(B) against whom such an obligation is sought;

“(C) to whom such an obligation is owed, including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

“(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

“(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “social security” and all that follows through “absent parent” and inserting “information described in subsection (a)”; and

(B) in the flush paragraph at the end, by adding the following: “No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).”.

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking “support” and inserting “support or to seek to enforce orders providing child custody or visitation rights”; and

(2) in paragraph (2), by striking “, or any agent of such court; and” and inserting “or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;”.

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting “in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)” before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

“(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).”.

(e) CONFORMING AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

Establishment.

"(h) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

Establishment.

"(i) NATIONAL DIRECTORY OF NEW HIRES.—

"(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1997, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

“(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—

“(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—

“(A) IN GENERAL.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

“(B) VERIFICATION BY SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

“(i) The name, social security number, and birth date of each such individual.

“(ii) The employer identification number of each such employer.

“(2) INFORMATION COMPARISONS.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

“(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

“(B) within 2 business days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

Reports.

“(3) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

“(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

Reports.

“(B) disclose information in such registries to such State agencies.

“(4) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory.

“(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

“(k) FEES.—

“(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

“(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

“(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

“(1) RESTRICTION ON DISCLOSURE AND USE.—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

“(m) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

“(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

“(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

“(n) FEDERAL GOVERNMENT REPORTING.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counter-intelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.”

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

“(B) the Federal Parent Locator Service established under section 453;”.

(B) Section 454(13) (42 U.S.C. 654(13)) is amended by inserting “and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan” before the semicolon.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking “Secretary of Health, Education, and Welfare” each place such term appears and inserting “Secretary of Health and Human Services”;

(B) in subparagraph (B), by striking “such information” and all that follows and inserting “information furnished

under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;”;

(C) by striking “and” at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

“(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and”.

Regulations.

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

“(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

“(A) disclose quarterly, to the Secretary of Health and Human Services, wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

“(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

“(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

“(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

Notification.

“(3) For purposes of this subsection—

“(A) the term ‘wage information’ means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

“(B) the term ‘claim information’ means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual’s current (or most recent) home address.”.

(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) DISCLOSURE TO CERTAIN AGENTS.—The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

“(i) The address and social security account number (or numbers) of such individual.

“(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.”

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by striking “(l)(12)” and inserting “paragraph (6) or (12) of subsection (l)”.

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

“(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.”

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking “subsection (l)(12)(B)” and inserting “paragraph (6)(A) or (12)(B) of subsection (l)”.

42 USC 653 note.

(h) REQUIREMENT FOR COOPERATION.—The Secretary of Labor and the Secretary of Health and Human Services shall work jointly to develop cost-effective and efficient methods of accessing the information in the various State directories of new hires and the National Directory of New Hires as established pursuant to the amendments made by this subtitle. In developing these methods the Secretaries shall take into account the impact, including costs, on the States, and shall also consider the need to insure the proper and authorized use of wage record information.

#### SEC. 317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 315 of this Act, is amended by inserting after paragraph (12) the following new paragraph:

“(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

“(A) any applicant for a professional license, commercial driver’s license, occupational license, or marriage license be recorded on the application;

“(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

“(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.”.

## **Subtitle C—Streamlining and Uniformity of Procedures**

### **SEC. 321. ADOPTION OF UNIFORM STATE LAWS.**

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

“(f) **UNIFORM INTERSTATE FAMILY SUPPORT ACT.**—In order to satisfy section 454(20)(A), on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.”.

### **SEC. 322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.**

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking “subsection (e)” and inserting “subsections (e), (f), and (i)”;

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

“‘child’s home State’ means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.”;

(3) in subsection (c), by inserting “by a court of a State” before “is made”;

(4) in subsection (c)(1), by inserting “and subsections (e), (f), and (g)” after “located”;

(5) in subsection (d)—

(A) by inserting “individual” before “contestant”; and

(B) by striking “subsection (e)” and inserting “subsections (e) and (f)”;

(6) in subsection (e), by striking “make a modification of a child support order with respect to a child that is made” and inserting “modify a child support order issued”;

(7) in subsection (e)(1), by inserting “pursuant to subsection (i)” before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting “individual” before “contestant” each place such term appears; and

(B) by striking “to that court’s making the modification and assuming” and inserting “with the State of continuing,



exclusive jurisdiction for a court of another State to modify the order and assume”;

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

Courts.

“(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

“(1) If only 1 court has issued a child support order, the order of that court must be recognized.

“(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

“(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

“(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

“(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.”;

(11) in subsection (g) (as so redesignated)—

(A) by striking “PRIOR” and inserting “MODIFIED”; and

(B) by striking “subsection (e)” and inserting “subsections (e) and (f)”;

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting “including the duration of current payments and other obligations of support” before the comma; and

(B) in paragraph (3), by inserting “arrears under” after “enforce”; and

(13) by adding at the end the following new subsection:

“(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.”.

#### SEC. 323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315 and 317 of this Act, is amended by inserting after paragraph (13) the following new paragraph:

“(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

“(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

“(ii) the term ‘business day’ means a day on which State offices are open for regular business;

“(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

“(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

“(ii) shall constitute a certification by the requesting State—

“(I) of the amount of support under the order the payment of which is in arrears; and

“(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

“(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the case-load of such other State; and

“(D) the State shall maintain records of—

“(i) the number of such requests for assistance received by the State;

“(ii) the number of cases for which the State collected support in response to such a request; and

“(iii) the amount of such collected support.”.

Records.

#### SEC. 324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking “and” at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) (as amended by section 346(a) of this Act) and inserting “; and”; and

(3) by adding at the end the following new paragraph:  
“(11) not later than October 1, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—

“(A) collection of child support through income withholding;

“(B) imposition of liens; and

“(C) administrative subpoenas.”.

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking “and” at the end of subparagraph (C);

(2) by inserting “and” at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

“(E) not later than March 1, 1997, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;”.

**SEC. 325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.**

(a) **STATE LAW REQUIREMENTS.**—Section 466 (42 U.S.C. 666), as amended by section 314 of this Act, is amended—

(1) in subsection (a)(2), by striking the first sentence and inserting the following: “Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations.”; and

(2) by inserting after subsection (b) the following new subsection:

“(c) **EXPEDITED PROCEDURES.**—The procedures specified in this subsection are the following:

“(1) **ADMINISTRATIVE ACTION BY STATE AGENCY.**—Procedures which give the State agency the authority to take the following actions relating to establishment of paternity or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States to take the following actions:

“(A) **GENETIC TESTING.**—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

“(B) **FINANCIAL OR OTHER INFORMATION.**—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

“(C) **RESPONSE TO STATE AGENCY REQUEST.**—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

“(D) **ACCESS TO INFORMATION CONTAINED IN CERTAIN RECORDS.**—To obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access under this subparagraph, to information contained in the following records (including automated access, in the case of records maintained in automated data bases):

“(i) Records of other State and local government agencies, including—

“(I) vital statistics (including records of marriage, birth, and divorce);

“(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

“(III) records concerning real and titled personal property;

“(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

“(V) employment security records;

“(VI) records of agencies administering public assistance programs;

“(VII) records of the motor vehicle department; and

“(VIII) corrections records.

“(ii) Certain records held by private entities with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought), consisting of—

“(I) the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena authorized by subparagraph (B); and

“(II) information (including information on assets and liabilities) on such individuals held by financial institutions.

“(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

“(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1)(A) and (b) of section 466.

“(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

“(i) intercepting or seizing periodic or lump-sum payments from—

“(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

“(II) judgments, settlements, and lotteries;

“(ii) attaching and seizing assets of the obligor held in financial institutions;

“(iii) attaching public and private retirement funds; and

“(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

“(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

“(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all

proceedings to establish paternity or to establish, modify, or enforce support orders:

“(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

“(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including Social Security number, residential and mailing addresses, telephone number, driver’s license number, and name, address, and telephone number of employer; and

“(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

“(B) STATEWIDE JURISDICTION.—Procedures under which—

“(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

“(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

“(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.”.

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 344(a)(2) and as amended by sections 311 and 312(c) of this Act, is amended by adding at the end the following new subsection:

“(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum

extent feasible, to implement the expedited administrative procedures required by section 466(c).”.

## Subtitle D—Paternity Establishment

### SEC. 331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

“(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

“(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—

“(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

“(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

“(B) PROCEDURES CONCERNING GENETIC TESTING.—

“(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause and other exceptions for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

“(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

“(II) denying paternity, and setting forth facts establishing a reasonable possibility of the non-existence of sexual contact between the parties.

“(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

“(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

“(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

“(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

“(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

“(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

“(iii) PATERNITY ESTABLISHMENT SERVICES.—

“(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

“(II) REGULATIONS.—

“(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

“(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

“(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

“(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—

“(i) INCLUSION IN BIRTH RECORDS.—Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if—

“(I) the father and mother have signed a voluntary acknowledgment of paternity; or

“(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity

by the father and any other additional showing required by State law.

“(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—

“(I) 60 days; or

“(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

“(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

“(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

“(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

“(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

“(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

“(II) performed by a laboratory approved by such an accreditation body;

“(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

“(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

“(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

“(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.



“(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

“(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

“(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

“(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

“(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.”.

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting “, and specify the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity which shall include the Social Security number of each parent and, after consultation with the States, other common elements as determined by such designee” before the semicolon.

(c) CONFORMING AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking “a simple civil process for voluntarily acknowledging paternity and”.

#### SEC. 332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting “and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate” before the semicolon.

#### SEC. 333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF PART A ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(a), and 313(a) of this Act, is amended—

- (1) by striking “and” at the end of paragraph (27);
- (2) by striking the period at the end of paragraph (28) and inserting “; and”; and
- (3) by inserting after paragraph (28) the following new paragraph:

“(29) provide that the State agency responsible for administering the State plan—

“(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A of this title or the

State program under title XIX is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to good cause and other exceptions which—

“(i) shall be defined, taking into account the best interests of the child, and

“(ii) shall be applied in each case,

by, at the option of the State, the State agency administering the State program under part A, this part, or title XIX;

“(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

“(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;

“(D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A, or the State program under title XIX; and

“(E) shall promptly notify the individual, the State agency administering the State program funded under part A, and the State agency administering the State program under title XIX, of each such determination, and if non-cooperation is determined, the basis therefor.”.

Notification.

## Subtitle E—Program Administration and Funding

### SEC. 341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) DEVELOPMENT OF NEW SYSTEM.—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace, in a revenue neutral manner, the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program. Not later than March 1, 1997, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

42 USC 658 note.

(b) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—Section 458 (42 U.S.C. 658) is amended—

Reports.

(1) in subsection (a), by striking “aid to families with dependent children under a State plan approved under part A of this title” and inserting “assistance under a program funded under part A”;

(2) in subsection (b)(1)(A), by striking “section 402(a)(26)” and inserting “section 408(a)(4)”;

(3) in subsections (b) and (c)—

(A) by striking “AFDC collections” each place it appears and inserting “title IV-A collections”; and

(B) by striking “non-AFDC collections” each place it appears and inserting “non-title IV-A collections”; and

(4) in subsection (c), by striking “combined AFDC/non-AFDC administrative costs” both places it appears and inserting “combined title IV-A/non-title IV-A administrative costs”.

(c) CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1)(A) (42 U.S.C. 652(g)(1)(A)) is amended by striking “75” and inserting “90”.

(2) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended—

(A) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) for a State with a paternity establishment percentage of not less than 75 percent but less than 90 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 2 percentage points;” and

(B) by adding at the end the following new flush sentence:

“In determining compliance under this section, a State may use as its paternity establishment percentage either the State’s IV-D paternity establishment percentage (as defined in paragraph (2)(A)) or the State’s statewide paternity establishment percentage (as defined in paragraph (2)(B)).”.

(3) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking “paternity establishment percentage” and inserting “IV-D paternity establishment percentage”; and

(II) by striking “(or all States, as the case may be)”; and

(ii) by striking “and” at the end; and

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) the term ‘statewide paternity establishment percentage’ means, with respect to a State for a fiscal year, the ratio (expressed as a percentage) that the total number of minor children—

“(i) who have been born out of wedlock, and

“(ii) the paternity of whom has been established or acknowledged during the fiscal year, bears to the total number of children born out of wedlock during the preceding fiscal year; and”.

(4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A) (as so redesignated), by striking “the percentage of children born out-of-wedlock in a State” and inserting “the percentage of children in a State who are born out of wedlock or for whom support has not been established”.

## (d) EFFECTIVE DATES.—

## (1) INCENTIVE ADJUSTMENTS.—

42 USC 658 note.

(A) IN GENERAL.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1999, except to the extent provided in subparagraph (B).

(B) APPLICATION OF SECTION 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 2000.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act.

42 USC 652 note.

**SEC. 342. FEDERAL AND STATE REVIEWS AND AUDITS.**

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking “(14)” and inserting “(14)(A)”;

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

“(15) provide for—

“(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

“(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including paternity establishment percentages) to the extent necessary for purposes of sections 452(g) and 458.”.

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

“(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

“(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

“(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data and the accuracy of the reporting systems used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;"

42 USC 652 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

#### SEC. 343. REQUIRED REPORTING PROCEDURES.

(a) **ESTABLISHMENT.**—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting "and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) **STATE PLAN REQUIREMENT.**—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(a), 313(a), and 333 of this Act, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part."

#### SEC. 344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) **REVISED REQUIREMENTS.**—

(1) **IN GENERAL.**—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking "at the option of the State";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651-669) is amended by inserting after section 454 the following new section:

**“SEC. 454A. AUTOMATED DATA PROCESSING.**

42 USC 654a.

“(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

“(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

“(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

“(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

“(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458, the State agency shall—

“(1) use the automated system—

“(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

“(B) to calculate the paternity establishment percentage for the State for each fiscal year; and

“(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

“(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

“(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

“(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

“(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

“(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

“(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

“(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local agency staff and

contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

“(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.”

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by section 303(a)(1) of this Act, is amended to read as follows:

“(24) provide that the State will have in effect an automated data processing and information retrieval system—

“(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and

“(B) by October 1, 2000, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 344(a)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;”.

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking “90 percent” and inserting “the percent specified in paragraph (3)”;

(ii) by striking “so much of”; and

(iii) by striking “which the Secretary” and all that follows and inserting “, and”; and

(B) by adding at the end the following new paragraph:

“(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on September 30, 1995) but limited to the amount approved for States in the advance planning documents of such States submitted on or before September 30, 1995.

“(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1996 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

“(ii) The percentage specified in this clause is 80 percent.”.

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than \$400,000,000 in the aggre-

42 USC 654a  
note.

42 USC 655 note.

gate under section 455(a)(3)(B) of the Social Security Act for fiscal years 1996 through 2001.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3)(B) of such Act for fiscal years 1996 through 2001 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100-485) is repealed.

42 USC 655, 655  
note.

#### SEC. 345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

“(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

“(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

“(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

The amount appropriated under this subsection shall remain available until expended.”.

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 316 of this Act, is amended by adding at the end the following new subsection:

“(o) RECOVERY OF COSTS.—Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent



Locator Service under this section, to the extent such costs are not recovered through user fees.”.

**SEC. 346. REPORTS AND DATA COLLECTION BY THE SECRETARY.**

(a) ANNUAL REPORT TO CONGRESS.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking “this part;” and inserting “this part, including—”; and

(B) by adding at the end the following new clauses:

“(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

“(ii) the cost to the States and to the Federal Government of so furnishing the services; and

“(iii) the number of cases involving families—

“(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

“(II) with respect to whom a child support payment was received in the month;”.

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking “with the data required under each clause being separately stated for cases” and inserting “separately stated for cases”;

(ii) by striking “cases where the child was formerly receiving” and inserting “or formerly received”;

(iii) by inserting “or 1912” after “471(a)(17)”; and

(iv) by inserting “for” before “all other”;

(B) in each of clauses (i) and (ii), by striking “, and the total amount of such obligations”;;

(C) in clause (iii), by striking “described in” and all that follows and inserting “in which support was collected during the fiscal year;”;

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

“(iv) the total amount of support collected during such fiscal year and distributed as current support;

“(v) the total amount of support collected during such fiscal year and distributed as arrearages;

“(vi) the total amount of support due and unpaid for all fiscal years; and”.

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking “on the use of Federal courts and”.

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking “and”;

(B) in subparagraph (I), by striking the period and inserting “, and”; and

(C) by inserting after subparagraph (I) the following new subparagraph:

“(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).”.

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1997 and succeeding fiscal years.

## **Subtitle F—Establishment and Modification of Support Orders**

### **SEC. 351. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.**

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

“(10) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—

“(A) 3-YEAR CYCLE.—

“(i) IN GENERAL.—Procedures under which every 3 years (or such shorter cycle as the State may determine), upon the request of either parent, or, if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent, the State shall with respect to a support order being enforced under this part, taking into account the best interests of the child involved—

“(I) review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines;

“(II) apply a cost-of-living adjustment to the order in accordance with a formula developed by the State; or

“(III) use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.

“(ii) OPPORTUNITY TO REQUEST REVIEW OF ADJUSTMENT.—If the State elects to conduct the review under subclause (II) or (III) of clause (i), procedures which permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

“(iii) NO PROOF OF CHANGE IN CIRCUMSTANCES NECESSARY IN 3-YEAR CYCLE REVIEW.—Procedures which provide that any adjustment under clause (i) shall be made without a requirement for proof or showing of a change in circumstances.

“(B) PROOF OF SUBSTANTIAL CHANGE IN CIRCUMSTANCES NECESSARY IN REQUEST FOR REVIEW OUTSIDE 3-YEAR CYCLE.—Procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under clause (i), the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 467(a).

“(C) NOTICE OF RIGHT TO REVIEW.—Procedures which require the State to provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.”.

**SEC. 352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.**

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

“(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

“(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

“(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

“(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

“(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

“(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.”.

**SEC. 353. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.**

Part D of title IV (42 U.S.C. 651-669) is amended by adding at the end the following:

44 USC 649s.

**“SEC. 469A. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.**

“(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforce-

ment agency attempting to establish, modify, or enforce a child support obligation of such individual.

“(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

“(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

“(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

“(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

“(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

“(A) the greater of—

“(i) \$1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

“(ii) the sum of—

“(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

“(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

“(B) the costs (including attorney's fees) of the action.

“(d) DEFINITIONS.—For purposes of this section—

“(1) FINANCIAL INSTITUTION.—The term ‘financial institution’ means—

“(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

“(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(u));

“(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

“(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.

“(2) FINANCIAL RECORD.—The term ‘financial record’ has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).”.

## Subtitle G—Enforcement of Support Orders

### SEC. 361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) **COLLECTION OF FEES.**—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

- (1) by striking “and” at the end of paragraph (3);
- (2) by striking the period at the end of paragraph (4) and inserting “, and”;
- (3) by adding at the end the following new paragraph:  
“(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor.”; and
- (4) by striking “Secretary of Health, Education, and Welfare” each place it appears and inserting “Secretary of Health and Human Services”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall become effective October 1, 1997.

### SEC. 362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) **CONSOLIDATION AND STREAMLINING OF AUTHORITIES.**—Section 459 (42 U.S.C. 659) is amended to read as follows:

#### “SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

“(a) **CONSENT TO SUPPORT ENFORCEMENT.**—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

“(b) **CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.**—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

**"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—**

**"(1) DESIGNATION OF AGENT.—**The head of each agency subject to this section shall—

**"(A)** designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

**"(B)** annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

Federal Register,  
publication.

**"(2) RESPONSE TO NOTICE OR PROCESS.—**If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

**"(A)** as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

**"(B)** within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

**"(C)** within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

**"(d) PRIORITY OF CLAIMS.—**If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

**"(1)** support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

**"(2)** allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

**"(3)** such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

**"(e) NO REQUIREMENT TO VARY PAY CYCLES.—**A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

**"(f) RELIEF FROM LIABILITY.—**

**"(1)** Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance

with this section and the regulations issued to carry out this section.

“(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

“(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

“(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

“(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

“(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

“(h) MONEYS SUBJECT TO PROCESS.—

“(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

“(A) consist of—

“(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

“(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

“(I) under the insurance system established by title II;

“(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

“(III) as compensation for death under any Federal program;

“(IV) under any Federal program established to provide 'black lung' benefits; or

“(V) by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation; and

“(iii) worker’s compensation benefits paid under Federal or State law but

“(B) do not include any payment—

“(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

“(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

“(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

“(A) are owed by the individual to the United States;

“(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

“(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

“(D) are deducted as health insurance premiums;

“(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

“(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

“(i) DEFINITIONS.—For purposes of this section—

“(1) UNITED STATES.—The term ‘United States’ includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

“(2) CHILD SUPPORT.—The term ‘child support’, when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney’s fees, and other relief.



**"(3) ALIMONY.—**

**"(A) IN GENERAL.**—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

**"(B) EXCEPTIONS.**—Such term does not include—

**"(i)** any child support; or

**"(ii)** any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

**"(4) PRIVATE PERSON.**—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

**"(5) LEGAL PROCESS.**—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

**"(A)** which is issued by—

**"(i)** a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

**"(ii)** a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

**"(iii)** an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

**"(B)** which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments."

**(b) CONFORMING AMENDMENTS.—**

**(1) TO PART D OF TITLE IV.**—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

**(2) TO TITLE 5, UNITED STATES CODE.**—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

**(c) MILITARY RETIRED AND RETAINER PAY.—**

**(1) DEFINITION OF COURT.**—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking “and” at the end of subparagraph (B);  
(B) by striking the period at the end of subparagraph  
(C) and inserting “; and”; and  
(C) by adding after subparagraph (C) the following  
new subparagraph:

“(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.”

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting “or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p)),” before “which—”;

(B) in subparagraph (B)(i), by striking “(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))” and inserting “(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 659(i)(2)))”; and

(C) in subparagraph (B)(ii), by striking “(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))” and inserting “(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 659(i)(3)))”.

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting “(OR FOR BENEFIT OF)” before “SPOUSE OR”; and

(B) in paragraph (1), in the first sentence, by inserting “(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)” before “in an amount sufficient”.

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

“(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.”

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

42 USC 659 note.

### SEC. 363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

10 USC 113 note.

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed

Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

10 USC 704 note.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term “child support” has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 362(c)(4) of this Act, is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

“(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.”.

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the first sentence the following new sentence: “In the case of a spouse or former spouse who, pursuant to section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.”.

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

“(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.”.

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the first pay period that begins after such 30-day period.

10 USC 1408  
note.

**SEC. 364. VOIDING OF FRAUDULENT TRANSFERS.**

Section 466 (42 U.S.C. 666), as amended by section 321 of this Act, is amended by adding at the end the following new subsection:

“(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—

“(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

“(B) the Uniform Fraudulent Transfer Act of 1984; or

“(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the

Secretary finds affords comparable rights to child support creditors; and

“(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

“(A) seek to void such transfer; or

“(B) obtain a settlement in the best interests of the child support creditor.”.

**SEC. 365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.**

(a) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, and 323 of this Act, is amended by inserting after paragraph (14) the following new paragraph:

“(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

“(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to—

“(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

“(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

“(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term ‘past-due support’ means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.”.

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C. 666(a)) is amended by striking “and (7)” and inserting “(7), and (15)”.

**SEC. 366. DEFINITION OF SUPPORT ORDER.**

Section 453 (42 U.S.C. 653) as amended by sections 316 and 345(b) of this Act, is amended by adding at the end the following new subsection:

“(p) SUPPORT ORDER DEFINED.—As used in this part, the term ‘support order’ means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement,

and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.”.

**SEC. 367. REPORTING ARREARAGES TO CREDIT BUREAUS.**

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

“(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

“(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

“(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—

“(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

“(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).”.

**SEC. 368. LIENS.**

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

“(4) LIENS.—Procedures under which—

“(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

“(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, when the State agency, party, or other entity seeking to enforce such a lien complies with the procedural rules relating to recording or serving liens that arise within the State, except that such rules may not require judicial notice or hearing prior to the enforcement of such a lien.”.

**SEC. 369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, and 365 of this Act, is amended by inserting after paragraph (15) the following:

“(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—

Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.”.

**SEC. 370. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.**

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by section 345 of this Act, is amended by adding at the end the following new subsection:

“(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child support in an amount exceeding \$5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to paragraph (2).

“(2) The Secretary of State shall, upon certification by the Secretary transmitted under paragraph (1), refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

“(3) The Secretary and the Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.”

(2) STATE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, and 343(b) of this Act, is amended—

(A) by striking “and” at the end of paragraph (29);

(B) by striking the period at the end of paragraph (30) and inserting “; and”; and

(C) by adding after paragraph (30) the following new paragraph:

“(31) provide that the State agency will have in effect a procedure for certifying to the Secretary, for purposes of the procedure under section 452(k), determinations that individuals owe arrearages of child support in an amount exceeding \$5,000, under which procedure—

“(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

“(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.”

42 USC 652 note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1997.

#### SEC. 371. INTERNATIONAL SUPPORT ENFORCEMENT.

(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:

42 USC 659a.

#### “SEC. 459A. INTERNATIONAL SUPPORT ENFORCEMENT.

“(a) AUTHORITY FOR DECLARATIONS.—

“(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

“(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—

“(A) the procedures established by the foreign country regarding the establishment and enforcement of duties of support have been so changed, or the foreign country’s implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

“(B) continued operation of the declaration is not consistent with the purposes of this part.

“(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

“(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—

“(1) MANDATORY ELEMENTS.—Support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

“(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—

“(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and

“(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

“(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

“(C) An agency of the foreign country is designated as a Central Authority responsible for—

“(i) facilitating support enforcement in cases involving residents of the foreign country and residents of the United States; and

“(ii) ensuring compliance with the standards established pursuant to this subsection.

“(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

“(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate support enforcement in cases involving residents of the United States and residents of foreign countries that are the subject of a declaration under this section, by activities including—

“(1) development of uniform forms and procedures for use in such cases;

“(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of information provided by the Federal Parent Locator Service; and

“(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.



“(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.”.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, 343(b), and 370(a)(2) of this Act, is amended—

- (1) by striking “and” at the end of paragraph (30);
- (2) by striking the period at the end of paragraph (31) and inserting “; and”; and
- (3) by adding after paragraph (31) the following new paragraph:

“(32)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

“(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

“(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).”.

#### SEC. 372. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, and 369 of this Act, is amended by inserting after paragraph (16) the following new paragraph:

“(17) FINANCIAL INSTITUTION DATA MATCHES.—

“(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

“(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

“(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

“(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

“(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—

“(i) for any disclosure of information to the State agency under subparagraph (A)(i);

“(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

“(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

“(D) DEFINITIONS.—For purposes of this paragraph—

“(i) FINANCIAL INSTITUTION.—The term ‘financial institution’ has the meaning given to such term by section 469A(d)(1).

“(ii) ACCOUNT.—The term ‘account’ means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.”.

**SEC. 373. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, 369, and 372 of this Act, is amended by inserting after paragraph (17) the following new paragraph:

“(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State’s option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parent of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parent of such child.”.

**SEC. 374. NONDISCHARGEABILITY IN BANKRUPTCY OF CERTAIN DEBTS FOR THE SUPPORT OF A CHILD.**

(a) AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking “or” at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting “; or”;

(3) by adding at the end the following:

“(18) owed under State law to a State or municipality that is—

“(A) in the nature of support, and

“(B) enforceable under part D of title IV of the Social Security Act (42 U.S.C. 601 et seq.)”; and

(4) in paragraph (5), by striking “section 402(a)(26)” and inserting “section 408(a)(3)”.

(b) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 456(b) (42 U.S.C. 656(b)) is amended to read as follows:

“(b) NONDISCHARGEABILITY.—A debt (as defined in section 101 of title 11 of the United States Code) owed under State law to a State (as defined in such section) or municipality (as defined in such section) that is in the nature of support and that is enforceable under this part is not released by a discharge in bankruptcy under title 11 of the United States Code.”.

11 USC 523 note.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

**SEC. 375. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.**

(a) CHILD SUPPORT ENFORCEMENT AGREEMENTS.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, 343(b), 370(a)(2), and 371(b) of this Act, is amended—

(1) by striking “and” at the end of paragraph (31);

(2) by striking the period at the end of paragraph (32) and inserting “; and”;

(3) by adding after paragraph (32) the following new paragraph:

“(33) provide that a State that receives funding pursuant to section 428 and that has within its borders Indian country (as defined in section 1151 of title 18, United States Code) may enter into cooperative agreements with an Indian tribe or tribal organization (as defined in subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), if the Indian tribe or tribal organization demonstrates that such tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to establish paternity, establish, modify, and enforce support orders, and to enter support orders in accordance with child support guidelines established by such tribe or organization, under which the State and tribe or organization shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all funding collected pursuant to the functions performed by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which shall distribute such funding in accordance with such agreement.”; and

(4) by adding at the end the following new sentence: “Nothing in paragraph (33) shall void any provision of any cooperative agreement entered into before the date of the enactment of such paragraph, nor shall such paragraph deprive any State of jurisdiction over Indian country (as so defined) that is lawfully exercised under section 402 of the Act entitled ‘An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes’, approved April 11, 1968 (25 U.S.C. 1322).”.

(b) DIRECT FEDERAL FUNDING TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Section 455 (42 U.S.C. 655) is amended by adding at the end the following new subsection:

“(b) The Secretary may, in appropriate cases, make direct payments under this part to an Indian tribe or tribal organization which has an approved child support enforcement plan under this title. In determining whether such payments are appropriate, the Secretary shall, at a minimum, consider whether services are being provided to eligible Indian recipients by the State agency through an agreement entered into pursuant to section 454(34).”.

(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—Paragraph (7) of section 454 (42 U.S.C. 654) is amended by inserting “and Indian tribes or tribal organizations (as defined in subsections (e) and

(1) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b))” after “law enforcement officials”.

Native  
Americans.

(d) CONFORMING AMENDMENT.—Subsection (c) of section 428 (42 U.S.C. 628) is amended to read as follows:

“(c) For purposes of this section, the terms ‘Indian tribe’ and ‘tribal organization’ shall have the meanings given such terms by subsections (e) and (1) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), respectively.”.

## Subtitle H—Medical Support

### SEC. 381. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

- (1) by striking “issued by a court of competent jurisdiction”;
- (2) by striking the period at the end of clause (ii) and inserting a comma; and
- (3) by adding, after and below clause (ii), the following: “if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.”.

(b) EFFECTIVE DATE.—

29 USC 1169  
note.

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1997.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1997, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

### SEC. 382. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, 369, 372, and 373 of this Act, is amended by inserting after paragraph (18) the following new paragraph:

“(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall

operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice."

## Subtitle I—Enhancing Responsibility and Opportunity for Non-Residential Parents

### SEC. 391. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651-669), as amended by section 353 of this Act, is amended by adding at the end the following new section:

42 USC 669B.

### "SEC. 469B. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to \$10,000,000 for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) \$50,000 for fiscal year 1997 or 1998; or

"(B) \$100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or nonprofit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

“(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.”.

## Subtitle J—Effective Dates and Conforming Amendments

### SEC. 395. EFFECTIVE DATES AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))— 42 USC 654 note.

(1) the provisions of this title requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon the date of the enactment of this Act. 42 USC 654 note.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions, but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.— A State shall not be found out of compliance with any requirement enacted by this title if the State is unable to so comply without amending the State constitution until the earlier of— 42 USC 654 note.

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) The following provisions are amended by striking “absent” each place it appears and inserting “noncustodial”:

(A) Section 451 (42 U.S.C. 651).

(B) Subsections (a)(1), (a)(8), (a)(10)(E), (a)(10)(F), (f), and (h) of section 452 (42 U.S.C. 652).

(C) Section 453(f) (42 U.S.C. 653(f)).

(D) Paragraphs (8), (13), and (21)(A) of section 454 (42 U.S.C. 654).

(E) Section 455(e)(1) (42 U.S.C. 655(e)(1)).

(F) Section 458(a) (42 U.S.C. 658(a)).

(G) Subsections (a), (b), and (c) of section 463 (42 U.S.C. 663).

(H) Subsections (a)(3)(A), (a)(3)(C), (a)(6), and (a)(8)(B)(ii), the last sentence of subsection (a), and subsections (b)(1), (b)(3)(B), (b)(3)(B)(i), (b)(6)(A)(i), (b)(9), and (e) of section 466 (42 U.S.C. 666).

(2) The following provisions are amended by striking “an absent” each place it appears and inserting “a noncustodial”:

(A) Paragraphs (2) and (3) of section 453(c) (42 U.S.C. 653(c)).

(B) Subparagraphs (B) and (C) of section 454(9) (42 U.S.C. 654(9)).

(C) Section 456(a)(3) (42 U.S.C. 656(a)(3)).

(D) Subsections (a)(3)(A), (a)(6), (a)(8)(B)(i), (b)(3)(A), and (b)(3)(B) of section 466 (42 U.S.C. 666).

(E) Paragraphs (2) and (4) of section 469(b) (42 U.S.C. 669(b)).

## **TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS**

8 USC 1601.

### **SEC. 400. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.**

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of qualified aliens for public benefits in this title, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

## Subtitle A—Eligibility for Federal Benefits

### SEC. 401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS. 8 USC 1611.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined in section 431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—

(1) Subsection (a) shall not apply with respect to the following Federal public benefits:

(A) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of such Act) of the alien involved and are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the State plan approved under such title (other than the requirement of the receipt of aid or assistance under title IV of such Act, supplemental security income benefits under title XVI of such Act, or a State supplementary payment).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Public health assistance (not including any assistance under title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(E) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(2) Subsection (a) shall not apply to any benefit payable under title II of the Social Security Act to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act, to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act,



or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before the month in which this Act becomes law.

(c) **FEDERAL PUBLIC BENEFIT DEFINED.**—

(1) Except as provided in paragraph (2), for purposes of this title the term “Federal public benefit” means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

8 USC 1612.

**SEC. 402. LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.**

(a) **LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) **EXCEPTIONS.**—

(A) **TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.**—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) **CERTAIN PERMANENT RESIDENT ALIENS.**—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii) (I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) in the case

of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—

(i) SSI.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(A), during the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual who is receiving benefits under such program as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.

(II) REDETERMINATION CRITERIA.— With respect to any redetermination under subclause (I), the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the redetermination under subclause (I), shall only apply with respect to the benefits of an individual described in subclause (I) for months beginning on or after the date of the redetermination with respect to such individual.

(IV) NOTICE.—Not later than March 31, 1997, the Commissioner of Social Security shall notify an individual described in subclause (I) of the provisions of this clause.

(ii) FOOD STAMPS.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), during the period beginning on the date of enactment of this Act and ending on the date which is 1 year after the date of enactment, the State agency shall, at the time of the recertification, recertify the eligibility of any individual who is receiving benefits under such program as of the date of enactment of this Act and whose eligibility

for such benefits may terminate by reason of the provisions of this subsection.

(II) RECERTIFICATION CRITERIA.—With respect to any recertification under subclause (I), the State agency shall apply the eligibility criteria for applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the recertification under subclause (I) shall only apply with respect to the eligibility of an alien for a program for months beginning on or after the date of recertification, if on the date of enactment of this Act the alien is lawfully residing in any State and is receiving benefits under such program on such date of enactment.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this title, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii) (I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) in the case of any such qualifying quarter creditable for any period

beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(C) **VETERAN AND ACTIVE DUTY EXCEPTION.**—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) **TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.**—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) **DESIGNATED FEDERAL PROGRAM DEFINED.**—For purposes of this title, the term “designated Federal program” means any of the following:

(A) **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.**—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) **SOCIAL SERVICES BLOCK GRANT.**—The program of block grants to States for social services under title XX of the Social Security Act.

(C) **MEDICAID.**—A State plan approved under title XIX of the Social Security Act, other than medical assistance described in section 401(b)(1)(A).

**SEC. 403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.** 8 USC 1613.

(a) **IN GENERAL.**—Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d), an alien who is a qualified alien (as defined in section 431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term “qualified alien”.

(b) **EXCEPTIONS.**—The limitation under subsection (a) shall not apply to the following aliens:

(1) **EXCEPTION FOR REFUGEES AND ASYLEES.**—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) **VETERAN AND ACTIVE DUTY EXCEPTION.**—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) APPLICATION OF TERM FEDERAL MEANS-TESTED PUBLIC BENEFIT.—

(1) The limitation under subsection (a) shall not apply to assistance or benefits under paragraph (2).

(2) Assistance and benefits under this paragraph are as follows:

(A) Medical assistance described in section 401(b)(1)(A).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E) Public health assistance (not including any assistance under title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(F) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act for a parent or a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in section 431).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

(J) Benefits under the Head Start Act.

(K) Benefits under the Job Training Partnership Act.

(d) SPECIAL RULE FOR REFUGEE AND ENTRANT ASSISTANCE FOR CUBAN AND HAITIAN ENTRANTS.—The limitation under subsection (a) shall not apply to refugee and entrant assistance activities, authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980,

for Cuban and Haitian entrants as defined in section 501(e)(2) of the Refugee Education Assistance Act of 1980.

**SEC. 404. NOTIFICATION AND INFORMATION REPORTING.**

8 USC 1614.

(a) **NOTIFICATION.**—Each Federal agency that administers a program to which section 401, 402, or 403 applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subtitle.

(b) **INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.**—Part A of title IV of the Social Security Act is amended by inserting the following new section after section 411:

**“SEC. 411A. STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.**

42 USC 611a.

“Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is unlawfully in the United States.”.

(c) **SSI.**—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103-296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

(2) by adding at the end the following new paragraph:

“(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the ‘Service’), furnish the Service with the name and address of, and other identifying information on, any individual who the Commissioner knows is unlawfully in the United States, and shall ensure that each agreement entered into under section 1616(a) with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is unlawfully in the United States.”.

(d) **INFORMATION REPORTING FOR HOUSING PROGRAMS.**—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

**“SEC. 27. PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.**

42 USC 1437y.

“Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the ‘Service’), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is unlawfully in the United States.”.

## Subtitle B—Eligibility for State and Local Public Benefits Programs

8 USC 1621.

### SEC. 411. ALIENS WHO ARE NOT QUALIFIED ALIENS OR NON-IMMIGRANTS INELIGIBLE FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not—

- (1) a qualified alien (as defined in section 431),
  - (2) a nonimmigrant under the Immigration and Nationality Act, or
  - (3) an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year,
- is not eligible for any State or local public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State or local public benefits:

(1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of the Social Security Act) of the alien involved and are not related to an organ transplant procedure.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(c) STATE OR LOCAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraphs (2) and (3), for purposes of this subtitle the term "State or local public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General.

(3) Such term does not include any Federal public benefit under section 4001(c).

(d) **STATE AUTHORITY TO PROVIDE FOR ELIGIBILITY OF ILLEGAL ALIENS FOR STATE AND LOCAL PUBLIC BENEFITS.**—A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after the date of the enactment of this Act which affirmatively provides for such eligibility.

**SEC. 412. STATE AUTHORITY TO LIMIT ELIGIBILITY OF QUALIFIED ALIENS FOR STATE PUBLIC BENEFITS.** 8 USC 1622.

(a) **IN GENERAL.**—Notwithstanding any other provision of law and except as provided in subsection (b), a State is authorized to determine the eligibility for any State public benefits of an alien who is a qualified alien (as defined in section 431), a nonimmigrant under the Immigration and Nationality Act, or an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year.

(b) **EXCEPTIONS.**—Qualified aliens under this subsection shall be eligible for any State public benefits.

(1) **TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.**—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(B) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(C) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(2) **CERTAIN PERMANENT RESIDENT ALIENS.**—An alien who—

(A) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(B)(i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(3) **VETERAN AND ACTIVE DUTY EXCEPTION.**—An alien who is lawfully residing in any State and is—



(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(4) **TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.**—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

## **Subtitle C—Attribution of Income and Affidavits of Support**

8 USC 1631.

### **SEC. 421. FEDERAL ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as provided under section 403), the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 423) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) **DURATION OF ATTRIBUTION PERIOD.**—Subsection (a) shall apply with respect to an alien until such time as the alien—

(1) achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act; or

(2)(A) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (B) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(c) **REVIEW OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION.**—Whenever an alien is required to reapply for benefits under any Federal means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

(d) **APPLICATION.**—

(1) If on the date of the enactment of this Act, a Federal means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(2) If on the date of the enactment of this Act, a Federal means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the

alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

**SEC. 422. AUTHORITY FOR STATES TO PROVIDE FOR ATTRIBUTION OF SPONSORS INCOME AND RESOURCES TO THE ALIEN WITH RESPECT TO STATE PROGRAMS.** 8 USC 1632.

(a) **OPTIONAL APPLICATION TO STATE PROGRAMS.**—Except as provided in subsection (b), in determining the eligibility and the amount of benefits of an alien for any State public benefits (as defined in section 412(c)), the State or political subdivision that offers the benefits is authorized to provide that the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 423) on behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply with respect to the following State public benefits:

(1) Assistance described in section 411(b)(1).

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Programs comparable to assistance or benefits under the National School Lunch Act.

(4) Programs comparable to assistance or benefits under the Child Nutrition Act of 1966.

(5) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(6) Payments for foster care and adoption assistance.

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General of a State, after consultation with appropriate agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

**SEC. 423. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.**

(a) **IN GENERAL.**—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

**"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT**

**"SEC. 213A. (a) ENFORCEABILITY.**—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract— 8 USC 1183a.

**"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any**

means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

“(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

“(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

“(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

“(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

“(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

“(d) NOTIFICATION OF CHANGE OF ADDRESS.—

“(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

“(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

“(A) not less than \$250 or more than \$2,000, or

“(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than \$2,000 or more than \$5,000.

“(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

“(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

“(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

“(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

“(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

“(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

“(f) DEFINITIONS.—For the purposes of this section—

“(1) SPONSOR.—The term ‘sponsor’ means an individual who—

“(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

“(B) is 18 years of age or over;

“(C) is domiciled in any of the 50 States or the District of Columbia; and

“(D) is the person petitioning for the admission of the alien under section 204.”.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section.

8 USC 1138a  
note.

(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following:

8 USC 1138a  
note.

(1) Medical assistance described in section 401(b)(1)(A) or assistance described in section 411(b)(1).

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5) Public health assistance for immunizations (not including any assistance under title XIX of the Social Security Act) with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(6) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act for a parent or a child, but only if the foster or adoptive parent

(or parents) of such child is a qualified alien (as defined in section 431).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act.

(9) Benefits under the Head Start Act.

(10) Means-tested programs under the Elementary and Secondary Education Act of 1965.

(11) Benefits under the Job Training Partnership Act.

#### Subtitle D—General Provisions

8 USC 1641.

##### SEC. 431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this title, the terms used in this title have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this title, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

8 USC 1642.

##### SEC. 432. VERIFICATION OF ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit (as defined in section 401(c)), to which the limitation under section 401 applies, is a qualified alien and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(b) **STATE COMPLIANCE.**—Not later than 24 months after the date the regulations described in subsection (a) are adopted, a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the regulations.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

**SEC. 433. STATUTORY CONSTRUCTION.**

8 USC 1643.

(a) **LIMITATION.**—

(1) Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this title may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under *Plyler v. Doe* (457 U.S. 202)(1982).

(b) **NOT APPLICABLE TO FOREIGN ASSISTANCE.**—This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) **SEVERABILITY.**—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

**SEC. 434. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.**

8 USC 1644.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

**SEC. 435. QUALIFYING QUARTERS.**

8 USC 1645.

For purposes of this title, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

(1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and

(2) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under paragraph (1) or (2) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided

under section 403) during the period for which such qualifying quarter of coverage is so credited.

## **Subtitle E—Conforming Amendments Relating to Assisted Housing**

### **SEC. 441. CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING.**

(a) **LIMITATIONS ON ASSISTANCE.**—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) by striking “Secretary of Housing and Urban Development” each place it appears and inserting “applicable Secretary”;

(2) in subsection (b), by inserting after “National Housing Act,” the following: “the direct loan program under section 502 of the Housing Act of 1949 or section 502(c)(5)(D), 504, 521(a)(2)(A), or 542 of such Act, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act,”;

(3) in paragraphs (2) through (6) of subsection (d), by striking “Secretary” each place it appears and inserting “applicable Secretary”;

(4) in subsection (d), in the matter following paragraph (6), by striking “the term ‘Secretary’” and inserting “the term ‘applicable Secretary’”; and

(5) by adding at the end the following new subsection:

“(h) For purposes of this section, the term ‘applicable Secretary’ means—

“(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act; and

“(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.”.

(b) **CONFORMING AMENDMENTS.**—Section 501(h) of the Housing Act of 1949 (42 U.S.C. 1471(h)) is amended—

(1) by striking “(1)”;

(2) by striking “by the Secretary of Housing and Urban Development”; and

(3) by striking paragraph (2).

## **Subtitle F—Earned Income Credit Denied to Unauthorized Employees**

### **SEC. 451. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.**

(a) **IN GENERAL.**—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

“(F) **IDENTIFICATION NUMBER REQUIREMENT.**—The term ‘eligible individual’ does not include any individual who does not include on the return of tax for the taxable year—

“(i) such individual’s taxpayer identification number, and

“(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual’s spouse.”.

(b) **SPECIAL IDENTIFICATION NUMBER.**—Section 32 of such Code is amended by adding at the end the following new subsection:

“(1) **IDENTIFICATION NUMBERS.**—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).”.

(c) **EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.**—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking “and” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

“(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

“(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is more than 30 days after the date of the enactment of this Act.

26 USC 32 note.

## TITLE V—CHILD PROTECTION

### SEC. 501. AUTHORITY OF STATES TO MAKE FOSTER CARE MAINTENANCE PAYMENTS ON BEHALF OF CHILDREN IN ANY PRIVATE CHILD CARE INSTITUTION.

Section 472(c)(2) of the Social Security Act (42 U.S.C. 672(c)(2)) is amended by striking “nonprofit”.

### SEC. 502. EXTENSION OF ENHANCED MATCH FOR IMPLEMENTATION OF STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEMS.

Section 13713(b)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 674 note; 107 Stat. 657) is amended by striking “1996” and inserting “1997”.

### SEC. 503. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.

Part B of title IV of the Social Security Act (42 U.S.C. 620–628a) is amended by adding at the end the following:

#### “SEC. 429A. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.

42 USC 628b.

“(a) **IN GENERAL.**—The Secretary shall conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected.



“(b) REQUIREMENTS.—The study required by subsection (a) shall—

“(1) have a longitudinal component; and

“(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

“(c) PREFERRED CONTENTS.—In conducting the study required by subsection (a), the Secretary should—

“(1) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

“(2) follow each case for several years while obtaining information on, among other things—

“(A) the type of abuse or neglect involved;

“(B) the frequency of contact with State or local agencies;

“(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

“(D) the number, type, and characteristics of out-of-home placements of the child; and

“(E) the average duration of each placement.

“(d) REPORTS.—

“(1) IN GENERAL.—From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

“(2) AVAILABILITY.—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

“(3) AUTHORITY TO CHARGE FEE.—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

“(e) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for each of fiscal years 1996 through 2002 \$6,000,000 to carry out this section.”.

#### SEC. 504. REDESIGNATION OF SECTION 1123.

42 USC 1320a-2a.

The Social Security Act is amended by redesignating section 1123, the second place it appears (42 U.S.C. 1320a-1a), as section 1123A.

#### SEC. 505. KINSHIP CARE.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking “and” at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting “; and”; and

(3) by adding at the end the following:

“(18) provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards.”.

Child Care and  
Development  
Block Grant  
Amendments of  
1996.  
42 USC 9801  
note.

## TITLE VI—CHILD CARE

#### SEC. 601. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the “Child Care and Development Block Grant Amendments of 1996”.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

#### SEC. 602. GOALS.

Section 658A (42 U.S.C. 9801 note) is amended—

(1) in the section heading by inserting “AND GOALS” after “TITLE”;

(2) by inserting “(a) SHORT TITLE.—” before “This”; and

(3) by adding at the end the following:

“(b) GOALS.—The goals of this subchapter are—

“(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

“(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family’s needs;

“(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

“(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

“(5) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.”.

42 USC 9801  
note.  
42 USC 9858  
note.

#### SEC. 603. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.

(a) IN GENERAL.—Section 658B (42 U.S.C. 9858) is amended to read as follows:

##### “SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this subchapter \$1,000,000,000 for each of the fiscal years 1996 through 2002.”.

(b) SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act (42 U.S.C. 601–617) is amended by adding at the end the following new section:

##### “SEC. 418. FUNDING FOR CHILD CARE.

42 USC 618.

“(a) GENERAL CHILD CARE ENTITLEMENT.—

“(1) GENERAL ENTITLEMENT.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to—

“(A) the sum of the total amount required to be paid to the State under section 403 for fiscal year 1994 or 1995 (whichever is greater) with respect to amounts expended for child care under section—

“(i) 402(g) of this Act (as such section was in effect before October 1, 1995); and

“(ii) 402(i) of this Act (as so in effect); or

“(B) the average of the total amounts required to be paid to the State for fiscal years 1992 through 1994 under the sections referred to in subparagraph (A); whichever is greater.

“(2) REMAINDER.—

“(A) GRANTS.—The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after the reservation described in paragraph (4) and after grants are awarded under paragraph (1), to make grants to States under this paragraph.

“(B) AMOUNT.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State under section 403(n) (as such section was in effect before October 1, 1995).

“(C) MATCHING REQUIREMENT.—The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 (as defined in section 1905(b)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under paragraph (1)(A) for such year and the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equal the non-Federal share for the programs described in subparagraph (A) of paragraph (1).

“(D) REDISTRIBUTION.—

“(i) IN GENERAL.—With respect to any fiscal year, if the Secretary determines (in accordance with clause (ii)) that amounts under any grant awarded to a State under this paragraph for such fiscal year will not be used by such State during such fiscal year for carrying out the purpose for which the grant is made, the Secretary shall make such amounts available in the subsequent fiscal year for carrying out such purpose to one or more States which apply for such funds to the extent the Secretary determines that such States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 403(n) (as such section was in effect before October 1, 1995) by substituting ‘the number of children residing in all States applying for such funds’ for ‘the number of children residing in the United States in the second preceding fiscal year’.

“(ii) TIME OF DETERMINATION AND DISTRIBUTION.—The determination of the Secretary under clause (i) for a fiscal year shall be made not later than the end of the first quarter of the subsequent fiscal year. The redistribution of amounts under clause (i) shall be made as close as practicable to the date on which such determination is made. Any amount made available to a State from an appropriation for a fiscal year in accordance with this subparagraph shall, for purposes of this part, be regarded as part of such State’s

payment (as determined under this subsection) for the fiscal year in which the redistribution is made.

“(3) APPROPRIATION.—For grants under this section, there are appropriated—

“(A) \$1,967,000,000 for fiscal year 1997;

“(B) \$2,067,000,000 for fiscal year 1998;

“(C) \$2,167,000,000 for fiscal year 1999;

“(D) \$2,367,000,000 for fiscal year 2000;

“(E) \$2,567,000,000 for fiscal year 2001; and

“(F) \$2,717,000,000 for fiscal year 2002.

“(4) INDIAN TRIBES.—The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—Amounts received by a State under this section shall only be used to provide child care assistance. Amounts received by a State under a grant under subsection (a)(1) shall be available for use by the State without fiscal year limitation.

“(2) USE FOR CERTAIN POPULATIONS.—A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

“(c) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT of 1990.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990, integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

“(d) DEFINITION.—As used in this section, the term ‘State’ means each of the 50 States or the District of Columbia.”.

#### **SEC. 604. LEAD AGENCY.**

Section 658D(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “State” the first place that such appears and inserting “governmental or nongovernmental”; and

(B) in subparagraph (C), by inserting “with sufficient time and Statewide distribution of the notice of such hearing,” after “hearing in the State”; and

(2) in paragraph (2), by striking the second sentence.

#### **SEC. 605. APPLICATION AND PLAN.**

Section 658E (42 U.S.C. 9858e) is amended—

(1) in subsection (b)—

(A) by striking “implemented—” and all that follows through “(2)” and inserting “implemented”; and

(B) by striking “for subsequent State plans”;

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (i) by striking “, other than through assistance provided under paragraph (3)(C),”; and

(II) by striking “except” and all that follows through “1992”, and inserting “and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph”;

(ii) in subparagraph (B)—

(I) by striking “Provide assurances” and inserting “Certify”; and

(II) by inserting before the period at the end “and provide a detailed description of such procedures”;

(iii) in subparagraph (C)—

(I) by striking “Provide assurances” and inserting “Certify”; and

(II) by inserting before the period at the end “and provide a detailed description of how such record is maintained and is made available”;

(iv) by amending subparagraph (D) to read as follows:

“(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.”;

(v) in subparagraph (E), to read as follows:

“(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—

“(i) IN GENERAL.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

“(ii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organization receiving assistance under this subchapter.”;

(vi) in subparagraph (F) by striking “Provide assurances” and inserting “Certify”;

(vii) in subparagraph (G) by striking “Provide assurances” and inserting “Certify”; and

(viii) by striking subparagraphs (H), (I), and (J) and inserting the following:

“(H) MEETING THE NEEDS OF CERTAIN POPULATIONS.—Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting

through work activities to transition off of such assistance program, and families that are at risk of becoming dependent on such assistance program.”;

(B) in paragraph (3)—

(i) in subparagraph (A), by striking “(B) and (C)” and inserting “(B) through (D)”;

(ii) in subparagraph (B)—

(I) by striking “—Subject to the reservation contained in subparagraph (C), the” and inserting “AND RELATED ACTIVITIES.—The”;

(II) in clause (i) by striking “; and” at the end and inserting a period;

(III) by striking “for—” and all that follows through “section 658E(c)(2)(A)” and inserting “for child care services on a sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)”;

(IV) by striking clause (ii);

(iii) by amending subparagraph (C) to read as follows:

“(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term ‘administrative costs’ shall not include the costs of providing direct services.”; and

(iv) by adding at the end thereof the following:

“(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 418(b)(2) of the Social Security Act with respect to each of the fiscal years 1997 through 2002) to the State to carry out activities under this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(H).”; and

(C) in paragraph (4)(A)—

(i) by striking “provide assurances” and inserting “certify”;

(ii) in the first sentence by inserting “and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access” before the period; and

(iii) by striking the last sentence.

#### **SEC. 606. LIMITATION ON STATE ALLOTMENTS.**

Section 658F(b)(1) (42 U.S.C. 9858d(b)(1)) is amended by striking “No” and inserting “Except as provided for in section 658O(c)(6), no”.

#### **SEC. 607. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

Section 658G (42 U.S.C. 9858e) is amended to read as follows:

42 USC 9858e.

**“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

“A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 4 percent of the amount of such funds for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).”.

**SEC. 608. REPEAL OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT.**

Section 658H (42 U.S.C. 9858f) is repealed.

**SEC. 609. ADMINISTRATION AND ENFORCEMENT.**

Section 658I(b) (42 U.S.C. 9858g(b)) is amended—

(1) in paragraph (1), by striking “, and shall have” and all that follows through “(2)”; and

(2) in the matter following clause (ii) of paragraph (2)(A), by striking “finding and that” and all that follows through the period and inserting “finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.”.

**SEC. 610. PAYMENTS.**

Section 658J(c) (42 U.S.C. 9858h(c)) is amended—

(1) by striking “expended” and inserting “obligated”; and

(2) by striking “3 fiscal years” and inserting “fiscal year”.

**SEC. 611. ANNUAL REPORT AND AUDITS.**

Section 658K (42 U.S.C. 9858i) is amended—

(1) in the section heading by striking “ANNUAL REPORT” and inserting “REPORTS”;

(2) in subsection (a), to read as follows:

“(a) REPORTS.—

“(1) COLLECTION OF INFORMATION BY STATES.—

“(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

“(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

“(i) family income;

“(ii) county of residence;

“(iii) the gender, race, and age of children receiving such assistance;

“(iv) whether the family includes only one parent;

“(v) the sources of family income, including the amount obtained from (and separately identified)—

“(I) employment, including self-employment;

“(II) cash or other assistance under part A of title IV of the Social Security Act;

“(III) housing assistance;

“(IV) assistance under the Food Stamp Act of 1977; and

“(V) other assistance programs;

“(vi) the number of months the family has received benefits;

“(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

“(viii) whether the child care provider involved was a relative;

“(ix) the cost of child care for such families; and

“(x) the average hours per week of such care;

during the period for which such information is required to be submitted.

“(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

“(D) SAMPLING.—The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.

“(2) BIENNIAL REPORTS.—Not later than December 31, 1997, and every 6 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

“(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658P(5);

“(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

“(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

“(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

“(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted.”; and

(2) in subsection (b)—

(A) in paragraph (1) by striking “a application” and inserting “an application”;

(B) in paragraph (2) by striking “any agency administering activities that receive” and inserting “the State that receives”; and

(C) in paragraph (4) by striking “entitles” and inserting “entitled”.

#### SEC. 612. REPORT BY THE SECRETARY.

Section 658L (42 U.S.C. 9858j) is amended—

(1) by striking “1993” and inserting “1997”;

(2) by striking “annually” and inserting “biennially”; and



(3) by striking "Education and Labor" and inserting "Economic and Educational Opportunities".

**SEC. 613. ALLOTMENTS.**

Section 658O (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "POSSESSIONS" and inserting "POSSESSIONS";

(ii) by inserting "and" after "States,"; and

(iii) by striking ", and the Trust Territory of the Pacific Islands"; and

(B) in paragraph (2), by striking "more than 3 percent" and inserting "less than 1 percent, and not more than 2 percent,";

(2) in subsection (c)—

(A) in paragraph (5) by striking "our" and inserting "out"; and

(B) by adding at the end thereof the following new paragraph:

"(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—

"(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

"(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

"(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (A) is being made.

"(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph.";

and

(3) in subsection (e), by adding at the end thereof the following new paragraph:

"(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other

tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.”.

#### SEC. 614. DEFINITIONS.

Section 658P (42 U.S.C. 9858n) is amended—

(1) in paragraph (2), in the first sentence by inserting “or as a deposit for child care services if such a deposit is required of other children being cared for by the provider” after “child care services”; and

(2) by striking paragraph (3);

(3) in paragraph (4)(B), by striking “75 percent” and inserting “85 percent”;

(4) in paragraph (5)(B)—

(A) by inserting “great grandchild, sibling (if such provider lives in a separate residence),” after “grandchild”;

(B) by striking “is registered and”; and

(C) by striking “State” and inserting “applicable”.

(5) by striking paragraph (10);

(6) in paragraph (13)—

(A) by inserting “or” after “Samoa”; and

(B) by striking “, and the Trust Territory of the Pacific Islands”;

(7) in paragraph (14)—

(A) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”; and

(B) by adding at the end thereof the following new subparagraph:

“(B) OTHER ORGANIZATIONS.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.”.

#### SEC. 615. EFFECTIVE DATE.

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note.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1996.

(b) EXCEPTION.—The amendment made by section 603(a) shall take effect on the date of enactment of this Act.

## TITLE VII—CHILD NUTRITION PROGRAMS

### Subtitle A—National School Lunch Act

#### SEC. 701. STATE DISBURSEMENT TO SCHOOLS.

(a) IN GENERAL.—Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended—

(1) in the third sentence, by striking “Nothing” and all that follows through “educational agency to” and inserting “The State educational agency may”;

(2) by striking the fourth and fifth sentences;

(3) by redesignating the first through seventh sentences, as amended by paragraph (2), as subsections (a) through (g), respectively;

(4) in subsection (b), as redesignated by paragraph (3), by striking "the preceding sentence" and inserting "subsection (a)"; and

(5) in subsection (d), as redesignated by paragraph (3), by striking "Such food costs" and inserting "Use of funds paid to States".

(b) **DEFINITION OF CHILD.**—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end the following:

"(9) **CHILD.**—

"(A) **IN GENERAL.**—The term 'child' includes an individual, regardless of age, who—

"(i) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have one or more mental or physical disabilities; and

"(ii) is attending any institution, as defined in section 17(a), or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with mental or physical disabilities.

"(B) **RELATIONSHIP TO CHILD AND ADULT CARE FOOD PROGRAM.**—No institution that is not otherwise eligible to participate in the program under section 17 shall be considered eligible because of this paragraph."

**SEC. 702. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.**

(a) **NUTRITIONAL STANDARDS.**—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) in paragraph (2)—

(A) by striking "(2)(A) Lunches" and inserting "(2) Lunches";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) **UTILIZATION OF AGRICULTURAL COMMODITIES.**—Section 9(c) of the National School Lunch Act (42 U.S.C. 1758(c)) is amended—

(1) in the fifth sentence, by striking "of the provisions of law referred to in the preceding sentence" and inserting "provision of law"; and

(2) by striking the second, fourth, and sixth sentences.

(c) **NUTRITIONAL INFORMATION.**—Section 9(f) of the National School Lunch Act (42 U.S.C. 1758(f)) is amended—

(1) by striking paragraph (1);

(2) by striking "(2)";

(3) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively;

(4) by striking paragraph (1), as redesignated by paragraph (3), and inserting the following:

"(1) **NUTRITIONAL REQUIREMENTS.**—Except as provided in paragraph (2), not later than the first day of the 1996-1997

school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—

“(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and

“(B) provide, on the average over each week, at least—

“(i) with respect to school lunches,  $\frac{1}{3}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

“(ii) with respect to school breakfasts,  $\frac{1}{4}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.”;

(5) in paragraph (3), as redesignated by paragraph (3)—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A), as so redesignated, by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(6) in paragraph (4), as redesignated by paragraph (3)—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated by subparagraph (A), by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(C) in subparagraph (A)(ii), as redesignated by subparagraph (B), by striking “subparagraph (C)” and inserting “paragraph (3)”.

(d) **USE OF RESOURCES.**—Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by striking subsection (h).

#### **SEC. 703. FREE AND REDUCED PRICE POLICY STATEMENT.**

Section 9(b)(2) of the National School Lunch Act (42 U.S.C. 1758(b)(2)) is amended by adding at the end the following:

“(D) **FREE AND REDUCED PRICE POLICY STATEMENT.**—

After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.”.

#### **SEC. 704. SPECIAL ASSISTANCE.**

(a) **EXTENSION OF PAYMENT PERIOD.**—Section 11(a)(1)(D)(i) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)(D)(i)) is amended by striking “, on the date of enactment of this subparagraph.”.

(b) **ROUNDING RULE FOR LUNCH, BREAKFAST, AND SUPPLEMENT RATES.**—

(1) **IN GENERAL.**—The third sentence of section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended by adding before the period at the end the following:

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note.

“, except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall become effective on July 1, 1997.

(c) **APPLICABILITY OF OTHER PROVISIONS.**—Section 11 of the National School Lunch Act (42 U.S.C. 1759a) is amended—

(1) by striking subsection (d);

(2) in subsection (e)(2)—

(A) by striking “The” and inserting “On request of the Secretary, the”; and

(B) by striking “each month”; and

(3) by redesignating subsections (e) and (f), as so amended, as subsections (d) and (e), respectively.

#### **SEC. 705. MISCELLANEOUS PROVISIONS AND DEFINITIONS.**

(a) **ACCOUNTS AND RECORDS.**—The second sentence of section 12(a) of the National School Lunch Act (42 U.S.C. 1760(a)) is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

(b) **RESTRICTION ON REQUIREMENTS.**—Section 12(c) of the National School Lunch Act (42 U.S.C. 1760(c)) is amended by striking “neither the Secretary nor the State shall” and inserting “the Secretary shall not”.

(c) **DEFINITIONS.**—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)), as amended by section 701(b), is amended—

(1) in paragraph (1), by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”;

(2) by striking paragraphs (3) and (4); and

(3) by redesignating paragraphs (1), (2), and (5) through (9) as paragraphs (6), (7), (3), (4), (2), (5), and (1), respectively, and rearranging the paragraphs so as to appear in numerical order.

(d) **ADJUSTMENTS TO NATIONAL AVERAGE PAYMENT RATES.**—Section 12(f) of the National School Lunch Act (42 U.S.C. 1760(f)) is amended by striking “the Trust Territory of the Pacific Islands,”.

(e) **EXPEDITED RULEMAKING.**—Section 12(k) of the National School Lunch Act (42 U.S.C. 1760(k)) is amended—

(1) by striking paragraphs (1), (2), and (5);

(2) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively; and

(3) in paragraph (1), as redesignated by paragraph (2), by striking “Guidelines” and inserting “guidelines contained in the most recent ‘Dietary Guidelines for Americans’ that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341)”.

(f) **WAIVER.**—Section 12(l) of the National School Lunch Act (42 U.S.C. 1760(l)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (iii), by adding “and” at the end;

(B) in clause (iv), by striking the semicolon at the end and inserting a period; and

(C) by striking clauses (v) through (vii);

(2) in paragraph (3)—

- (A) in subparagraph (A), by striking “(A)” and
- (B) by striking subparagraphs (B) through (D);
- (3) in paragraph (4)—
  - (A) in the matter preceding subparagraph (A), by striking “of any requirement relating” and inserting “that increases Federal costs or that relates”;
  - (B) by striking subparagraph (D);
  - (C) by redesignating subparagraphs (E) through (N) as subparagraphs (D) through (M), respectively; and
  - (D) in subparagraph (L), as redesignated by subparagraph (C), by striking “and” at the end and inserting “or”;
- and
- (4) in paragraph (6)—
  - (A) by striking “(A)(i)” and all that follows through “(B)”;
  - and
  - (B) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively.

**SEC. 706. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.**

(a) **ESTABLISHMENT OF PROGRAM.**—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “initiate, maintain, and expand” and inserting “initiate and maintain”; and

(B) in subparagraph (E) of the second sentence, by striking “the Trust Territory of the Pacific Islands,”; and

(2) in paragraph (7)(A), by striking “Except as provided in subparagraph (C), private” and inserting “Private”.

(b) **SERVICE INSTITUTIONS.**—Section 13(b) of the National School Lunch Act (42 U.S.C. 1761(b)) is amended by striking “(b)(1)” and all that follows through the end of paragraph (1) and inserting the following:

“(b) **SERVICE INSTITUTIONS.**—

“(1) **PAYMENTS.**—

“(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

“(B) **MAXIMUM AMOUNTS.**—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

“(i) \$1.97 for each lunch and supper served;

“(ii) \$1.13 for each breakfast served; and

“(iii) 46 cents for each meal supplement served.

“(C) **ADJUSTMENTS.**—Amounts specified in subparagraph (B) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment to reflect changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.”.

(c) ADMINISTRATION OF SERVICE INSTITUTIONS.—Section 13(b)(2) of the National School Lunch Act (42 U.S.C. 1761(b)(2)) is amended—

(1) in the first sentence, by striking “four meals” and inserting “3 meals, or 2 meals and 1 supplement,”; and

(2) by striking the second sentence.

(d) REIMBURSEMENTS.—Section 13(c)(2) of the National School Lunch Act (42 U.S.C. 1761(c)(2)) is amended—

(1) by striking subparagraphs (A), (C), (D), and (E);

(2) by striking “(B)”;

(3) by striking “, and such higher education institutions,”; and

(4) by striking “without application” and inserting “on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program”.

(e) ADVANCE PROGRAM PAYMENTS.—Section 13(e)(1) of the National School Lunch Act (42 U.S.C. 1761(e)(1)) is amended—

(1) by striking “institution: *Provided, That* (A) the” and inserting “institution. The”;

(2) by inserting “(excluding a school)” after “any service institution”; and

(3) by striking “responsibilities, and (B) no” and inserting “responsibilities. No”.

(f) FOOD REQUIREMENTS.—Section 13(f) of the National School Lunch Act (42 U.S.C. 1761(f)) is amended—

(1) by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively;

(2) by striking paragraph (3), as redesignated by paragraph (1);

(3) in paragraph (4), as redesignated by paragraph (1), by striking “the first sentence” and inserting “paragraph (1)”;

(4) in subparagraph (B) of paragraph (6), as redesignated by paragraph (1), by striking “that bacteria levels” and all that follows through the period at the end and inserting “conformance with standards set by local health authorities.”; and

(5) by redesignating paragraphs (4) through (7), as redesignated by paragraph (1), as paragraphs (3) through (6), respectively.

(g) PERMITTING OFFER VERSUS SERVE.—Section 13(f) of the National School Lunch Act (42 U.S.C. 1761(f)), as amended by subsection (f), is amended by adding at the end the following:

“(7) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.”.

(h) RECORDS.—The second sentence of section 13(m) of the National School Lunch Act (42 U.S.C. 1761(m)) is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

(i) REMOVING MANDATORY NOTICE TO INSTITUTIONS.—Section 13(n)(2) of the National School Lunch Act (42 U.S.C. 1761(n)(2))

is amended by striking “, and its plans and schedule for informing service institutions of the availability of the program”.

(j) **PLAN.**—Section 13(n) of the National School Lunch Act (42 U.S.C. 1761(n)), as amended by subsection (i), is amended—

(1) in paragraph (2), by striking “, including the State’s methods of assessing need”;

(2) by striking paragraph (3);

(3) in paragraph (4), by striking “and schedule”; and

(4) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(k) **MONITORING AND TRAINING.**—Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended—

(1) by striking paragraphs (2) and (4);

(2) in paragraph (3), by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraph (1)”; and

(3) by redesignating paragraph (3) as paragraph (2).

(l) **EXPIRED PROGRAM.**—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) by striking subsection (p); and

(2) by redesignating subsections (q) and (r) as subsections (p) and (q), respectively.

(m) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall become effective on January 1, 1997.

42 USC 1761  
note.

#### **SEC. 707. COMMODITY DISTRIBUTION.**

(a) **CEREAL AND SHORTENING IN COMMODITY DONATIONS.**—Section 14(b) of the National School Lunch Act (42 U.S.C. 1762a(b)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) **STATE ADVISORY COUNCIL.**—Section 14(e) of the National School Lunch Act (42 U.S.C. 1762a(e)) is amended to read as follows:

“(e) Each State agency that receives food assistance payments under this section for any school year shall consult with representatives of schools in the State that participate in the school lunch program with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.”

(c) **CASH COMPENSATION FOR PILOT PROJECT SCHOOLS.**—Section 14(g) of the National School Lunch Act (42 U.S.C. 1762a(g)) is amended by striking paragraph (3).

#### **SEC. 708. CHILD AND ADULT CARE FOOD PROGRAM.**

(a) **ESTABLISHMENT OF PROGRAM.**—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended in the first sentence of subsection (a), by striking “initiate, maintain, and expand” and inserting “initiate and maintain”.

(b) **PAYMENTS TO SPONSOR EMPLOYEES.**—Paragraph (2) of the last sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(D) in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an



employee of the organization on the number of family or group day care homes recruited.”.

(c) TECHNICAL ASSISTANCE.—The last sentence of section 17(d)(1) of the National School Lunch Act (42 U.S.C. 1766(d)(1)) is amended by striking “, and shall provide technical assistance” and all that follows through “its application”.

(d) REIMBURSEMENT OF CHILD CARE INSTITUTIONS.—Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking “two meals and two supplements or three meals and one supplement” and inserting “2 meals and 1 supplement”.

(e) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by striking “(3)(A) Institutions” and all that follows through the end of subparagraph (A) and inserting the following:

“(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

“(A) REIMBURSEMENT FACTOR.—

“(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

“(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

“(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term ‘tier I family or group day care home’ means—

“(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

“(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

“(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

“(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

“(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

“(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

“(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

“(I) IN GENERAL.—

“(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

“(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

“(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe

simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

“(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

“(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

“(cc) Such other simplified procedures as the Secretary may prescribe.

“(V) MINIMUM VERIFICATION REQUIREMENTS.—

The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.”

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by adding at the end the following:

“(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

“(i) IN GENERAL.—

“(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve \$5,000,000 of the amount made available for fiscal year 1997.

“(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

“(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

“(bb) training and other assistance to family and group day care homes in the

implementation of the amendment to subparagraph (A) made by section 708(e)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

“(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

“(I) \$30,000 in base funding to each State; and

“(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1995 as a percentage of the number of all family day care homes participating in the program during fiscal year 1995.

“(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1997 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

“(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).”

(3) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)), as amended by paragraph (2), is amended by adding at the end the following:

“(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

“(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

“(ii) SCHOOL DATA.—

“(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than  $\frac{1}{2}$  of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

“(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the

program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

“(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.”.

(4) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) is amended by inserting “except as provided in subsection (f)(3),” after “For purposes of this section,” each place it appears in paragraphs (1), (2), and (3).

(f) REIMBURSEMENT.—Section 17(f) of the National School Lunch Act (42 U.S.C. 1766(f)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking the third and fourth sentences; and

(B) in subparagraph (C)(ii), by striking “conduct outreach” and all that follows through “may become” and inserting “assist unlicensed family or group day care homes in becoming”; and

(2) in the first sentence of paragraph (4), by striking “shall” and inserting “may”.

(g) NUTRITIONAL REQUIREMENTS.—Section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)) is amended—

(1) in subparagraph (A), by striking the second sentence; and

(2) in subparagraph (B), by striking the second sentence.

(h) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by striking subsection (k) and inserting the following:

“(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.”.

(i) RECORDS.—The second sentence of section 17(m) of the National School Lunch Act (42 U.S.C. 1766(m)) is amended by striking “at all times” and inserting “at any reasonable time”.

(j) UNNEEDED PROVISION.—Section 17 of the National School Lunch Act is amended by striking subsection (q).

(k) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

42 USC 1766.

42 USC 1766  
note.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1) and (4) of subsection (e) shall become effective on July 1, 1997.

42 USC 1766  
note.

(3) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than January 1, 1997, the Secretary of Agriculture shall issue interim regulations to implement—

(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and

(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

(B) FINAL REGULATIONS.—Not later than July 1, 1997, the Secretary of Agriculture shall issue final regulations to implement the provisions of law referred to in subparagraph (A).

42 USC 1766  
note.

(1) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.—

(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—

(A) the number of family day care homes participating in the child and adult care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);

(B) the number of day care home sponsoring organizations participating in the program;

(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;

(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);

(E) the nutritional adequacy and quality of meals served in family day care homes that—

(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or

(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and

(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.

(2) REQUIRED DATA.—Each State agency participating in the child and adult care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary of Agriculture data on—

(A) the number of family day care homes participating in the program on June 30, 1997, and June 30, 1998;

(B) the number of family day care homes licensed, certified, registered, or approved for service on June 30, 1997, and June 30, 1998; and

(C) such other data as the Secretary may require to carry out this subsection.

(3) **SUBMISSION OF REPORT.**—Not later than 2 years after the date of enactment of this section, the Secretary of Agriculture shall submit the study required under this subsection to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

#### **SEC. 709. PILOT PROJECTS.**

(a) **UNIVERSAL FREE PILOT.**—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) **DEMONSTRATION PROJECT OUTSIDE SCHOOL HOURS.**—Section 18(e) of the National School Lunch Act (42 U.S.C. 1769(e)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “(A)”; and

(ii) by striking “shall” and inserting “may”; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (5) and inserting the following:

“(5) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.”.

#### **SEC. 710. REDUCTION OF PAPERWORK.**

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is repealed.

#### **SEC. 711. INFORMATION ON INCOME ELIGIBILITY.**

Section 23 of the National School Lunch Act (42 U.S.C. 1769d) is repealed.

#### **SEC. 712. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.**

Section 24 of the National School Lunch Act (42 U.S.C. 1769e) is repealed.

## **Subtitle B—Child Nutrition Act of 1966**

#### **SEC. 721. SPECIAL MILK PROGRAM.**

Section 3(a)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(3)) is amended by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”.

#### **SEC. 722. FREE AND REDUCED PRICE POLICY STATEMENT.**

Section 4(b)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)) is amended by adding at the end the following:

“(E) **FREE AND REDUCED PRICE POLICY STATEMENT.**—

After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change



in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.”.

#### **SEC. 723. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.**

(a) **TRAINING AND TECHNICAL ASSISTANCE IN FOOD PREPARATION.**—Section 4(e)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(B)) is amended by striking the second sentence.

(b) **EXPANSION OF PROGRAM; STARTUP AND EXPANSION COSTS.**—

(1) **IN GENERAL.**—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsections (f) and (g).

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall become effective on October 1, 1996.

42 USC 1773  
note.

#### **SEC. 724. STATE ADMINISTRATIVE EXPENSES.**

(a) **USE OF FUNDS FOR COMMODITY DISTRIBUTION ADMINISTRATION; STUDIES.**—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) by striking subsections (e) and (h); and

(2) by redesignating subsections (f), (g), and (i) as subsections (e), (f), and (g), respectively.

(b) **APPROVAL OF CHANGES.**—Section 7(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(e)), as so redesignated, is amended—

(1) by striking “each year an annual plan” and inserting “the initial fiscal year a plan”; and

(2) by adding at the end the following: “After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.”.

#### **SEC. 725. REGULATIONS.**

Section 10(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1779(b)) is amended—

(1) in paragraph (1), by striking “(1)”; and

(2) by striking paragraphs (2) through (4).

#### **SEC. 726. PROHIBITIONS.**

Section 11(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1780(a)) is amended by striking “neither the Secretary nor the State shall” and inserting “the Secretary shall not”.

#### **SEC. 727. MISCELLANEOUS PROVISIONS AND DEFINITIONS.**

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in paragraph (1), by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”; and

(2) in the first sentence of paragraph (3)—

(A) in subparagraph (A), by inserting “and” at the end; and

(B) by striking “, and (C)” and all that follows through “Governor of Puerto Rico”.

#### **SEC. 728. ACCOUNTS AND RECORDS.**

The second sentence of section 16(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1785(a)) is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

**SEC. 729. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.**

(a) **DEFINITIONS.**—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) in paragraph (15)(B)(iii), by inserting “of not more than 365 days” after “accommodation”; and

(2) in paragraph (16)—

(A) in subparagraph (A), by adding “and” at the end; and

(B) in subparagraph (B), by striking “; and” and inserting a period; and

(C) by striking subparagraph (C).

(b) **SECRETARY'S PROMOTION OF WIC.**—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by striking paragraph (5).

(c) **ELIGIBLE PARTICIPANTS.**—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by striking paragraph (4).

(d) **NUTRITION EDUCATION.**—Section 17(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)) is amended—

(1) in paragraph (2), by striking the third sentence;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking “shall”;

(B) by striking subparagraph (A);

(C) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(D) in subparagraph (A), as so redesignated—

(i) by inserting “shall” before “provide”; and

(ii) by striking “and” at the end;

(E) in subparagraph (B), as so redesignated—

(i) by inserting “shall” before “provide”; and

(ii) by striking the period at the end and inserting “; and”; and

(F) by adding at the end the following:

“(C) may provide a local agency with materials describing other programs for which a participant in the program may be eligible.”;

(3) in paragraph (5), by striking “The State agency shall ensure that each” and inserting “Each”; and

(4) by striking paragraph (6).

(e) **STATE PLAN.**—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “annually to the Secretary, by a date specified by the Secretary, a” and inserting “to the Secretary, by a date specified by the Secretary, an initial”; and

(ii) by adding at the end the following: “After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.”;

(B) in subparagraph (C)—

(i) by striking clause (iii) and inserting the following:

“(iii) a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;”;

(ii) in clause (vi), by inserting after “in the State” the following: “(including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas)”;

(iii) in clause (vii), by striking “to provide program benefits” and all that follows through “emphasis on” and inserting “for”;

(iv) by striking clauses (ix), (x), and (xii);

(v) in clause (xiii), by striking “may require” and inserting “may reasonably require”;

(vi) by redesignating clauses (xi) and (xiii), as so amended, as clauses (ix) and (x), respectively; and

(vii) in clause (ix), as so redesignated, by adding “and” at the end;

(C) by striking subparagraph (D); and

(D) by redesignating subparagraph (E) as subparagraph (D);

(2) by striking paragraphs (6) and (22);

(3) in the second sentence of paragraph (5), by striking “at all times be available” and inserting “be available at any reasonable time”;

(4) in paragraph (9)(B), by striking the second sentence;

(5) in the first sentence of paragraph (11), by striking “, including standards that will ensure sufficient State agency staff”;

(6) in paragraph (12), by striking the third sentence;

(7) in paragraph (14), by striking “shall” and inserting “may”;

(8) in paragraph (17), by striking “and to accommodate” and all that follows through “facilities”;

(9) in paragraph (19), by striking “shall” and inserting “may”; and

(10) by redesignating paragraphs (7) through (21) as paragraphs (6) through (20), and paragraphs (23) and (24) as paragraphs (21) and (22), respectively.

(f) INFORMATION.—Section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) is amended—

(1) in paragraph (5), by striking “the report required under subsection (d)(4)” and inserting “reports on program participant characteristics”; and

(2) by striking paragraph (6).

(g) PROCUREMENT OF INFANT FORMULA.—

(1) IN GENERAL.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended—

(A) in paragraph (4)(E), by striking “and, on” and all that follows through “(d)(4)”; and

(B) in paragraph (8)—

(i) by striking subparagraphs (A), (C), and (M);

(ii) in subparagraph (G)—

(I) in clause (i), by striking “(i)”; and

(II) by striking clauses (ii) through (ix);

(iii) in subparagraph (I), by striking “Secretary—” and all that follows through “(v) may” and inserting “Secretary may”;

(iv) by redesignating subparagraphs (B) and (D) through (L) as subparagraphs (A) and (B) through (J), respectively;

(v) in subparagraph (A)(i), as so redesignated, by striking “subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A),” and inserting “subparagraphs (B) and (C)(iii),”;

(vi) in subparagraph (B)(i), as so redesignated, by striking “subparagraph (B)” each place it appears and inserting “subparagraph (A)”;

(vii) in subparagraph (C)(iii), as so redesignated, by striking “subparagraph (B)” and inserting “subparagraph (A)”.

(2) APPLICATION.—The amendments made by paragraph (1) shall not apply to a contract for the procurement of infant formula under section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) that is in effect on the date of enactment of this subsection. 42 USC 1786 note.

(h) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Section 17(k)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(k)(3)) is amended by striking “Secretary shall designate” and inserting “Council shall elect”.

(i) COMPLETED STUDY; COMMUNITY COLLEGE DEMONSTRATION; GRANTS FOR INFORMATION AND DATA SYSTEM.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking subsections (n), (o), and (p).

(j) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended by subsection (i), is amended by adding at the end the following:

“(n) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—

“(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.). Regulations.

“(2) TERMS.—A disqualification under paragraph (1)—

“(A) shall be for the same period as the disqualification from the program referred to in paragraph (1);

“(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

“(C) shall not be subject to judicial or administrative review.”.

#### SEC. 730. CASH GRANTS FOR NUTRITION EDUCATION.

Section 18 of the Child Nutrition Act of 1966 (42 U.S.C. 1787) is repealed.

#### SEC. 731. NUTRITION EDUCATION AND TRAINING.

(a) FINDINGS.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (a), by striking “that—” and all that follows through the period at the end and inserting “that effective dissemination of scientifically valid information to children

participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged.”; and  
 (2) in subsection (b), by striking “encourage” and all that follows through “establishing” and inserting “establish”.

(b) USE OF FUNDS.—Section 19(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(f)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking “(A)”;

(ii) by striking clauses (ix) through (xix);

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively;

(iv) in subparagraph (I), as so redesignated, by striking the period at the end and inserting “; and”;

and

(v) by adding at the end the following:

“(J) other appropriate related activities, as determined by the State.”;

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) ACCOUNTS, RECORDS, AND REPORTS.—The second sentence of section 19(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(g)(1)) is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

(d) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(h)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking “as provided in paragraph (2) of this subsection”; and

(B) by striking “as provided in paragraph (3) of this subsection”;

(2) in paragraph (2), by striking the second and third sentences; and

(3) by striking paragraph (3).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) in the first sentence of paragraph (2)(A), by striking “and each succeeding fiscal year”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

“(3) FISCAL YEARS 1997 THROUGH 2002.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1997 through 2002.

“(B) GRANTS.—

“(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than \$75,000 per fiscal year.

“(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the

amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.”.

(f) ASSESSMENT.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking subsection (j).

(g) EFFECTIVE DATE.—The amendments made by subsection (e) shall become effective on October 1, 1996.

42 USC 1788  
note.

## Subtitle C—Miscellaneous Provisions

### SEC. 741. COORDINATION OF SCHOOL LUNCH, SCHOOL BREAKFAST, AND SUMMER FOOD SERVICE PROGRAMS.

42 USC 1751  
note.

#### (a) COORDINATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall develop proposed changes to the regulations under the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.), the summer food service program under section 13 of that Act (42 U.S.C. 1761), and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), for the purpose of simplifying and coordinating those programs into a comprehensive meal program.

(2) CONSULTATION.—In developing proposed changes to the regulations under paragraph (1), the Secretary of Agriculture shall consult with local, State, and regional administrators of the programs described in such paragraph.

(b) REPORT.—Not later than November 1, 1997, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives a report containing the proposed changes developed under subsection (a).

### SEC. 742. REQUIREMENTS RELATING TO PROVISION OF BENEFITS BASED ON CITIZENSHIP, ALIENAGE, OR IMMIGRATION STATUS UNDER THE NATIONAL SCHOOL LUNCH ACT, THE CHILD NUTRITION ACT OF 1966, AND CERTAIN OTHER ACTS.

8 USC 1615.

(a) SCHOOL LUNCH AND BREAKFAST PROGRAMS.—Notwithstanding any other provision of this Act, an individual who is eligible to receive free public education benefits under State or local law shall not be ineligible to receive benefits provided under the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) on the basis of citizenship, alienage, or immigration status.

#### (b) OTHER PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien, as defined in section 431(b), benefits under programs established under the provisions of law described in paragraph (2).

(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

(A) Programs (other than the school lunch program and the school breakfast program) under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(B) Section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(C) The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(D) The food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)).

## **TITLE VIII—FOOD STAMPS AND COMMODITY DISTRIBUTION**

### **Subtitle A—Food Stamp Program**

#### **SEC. 801. DEFINITION OF CERTIFICATION PERIOD.**

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months."

#### **SEC. 802. DEFINITION OF COUPON.**

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number,".

#### **SEC. 803. TREATMENT OF CHILDREN LIVING AT HOME.**

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

#### **SEC. 804. ADJUSTMENT OF THRIFTY FOOD PLAN.**

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "shall (1) make" and inserting the following:

"(1) make";

(2) by striking "scale, (2) make" and inserting the following:

"(2) make";

(3) by striking "Alaska, (3) make" and inserting the following: "Alaska;

"(3) make"; and

(4) by striking "Columbia, (4) through" and all that follows through the end of the subsection and inserting the following: "Columbia; and

"(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996."

**SEC. 805. DEFINITION OF HOMELESS INDIVIDUAL.**

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

**SEC. 806. STATE OPTION FOR ELIGIBILITY STANDARDS.**

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking "(b) The Secretary" and inserting the following:

"(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary".

**SEC. 807. EARNINGS OF STUDENTS.**

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "17".

**SEC. 808. ENERGY ASSISTANCE.**

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking paragraph (11) and inserting the following: "(11)(A) any payments or allowances made for the purpose of providing energy assistance under any Federal law (other than part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), or (B) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,".

(b) CONFORMING AMENDMENTS.—Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(B) in subparagraph (B), by striking ", not including energy or utility-cost assistance,";

(2) in paragraph (2), by striking subparagraph (C) and inserting the following:

"(C) a payment or allowance described in subsection (d)(11);" and

(3) by adding at the end the following:

"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a State law (other than a law referred to in paragraph (2)(H)) to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household."

**SEC. 809. DEDUCTIONS FROM INCOME.**

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

"(e) DEDUCTIONS FROM INCOME.—

"(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous



States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of \$134, \$229, \$189, \$269, and \$118, respectively.

“(2) EARNED INCOME DEDUCTION.—

“(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term ‘earned income’ does not include—

“(i) income excluded by subsection (d); or

“(ii) any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

“(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

“(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

“(3) DEPENDENT CARE DEDUCTION.—

“(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be \$200 per month for each dependent child under 2 years of age and \$175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

“(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

“(i) expenses paid on behalf of the household by a third party;

“(ii) amounts made available and excluded, for the expenses referred to in subparagraph (A), under subsection (d)(3); and

“(iii) expenses that are paid under section 6(d)(4).

“(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

“(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

“(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

“(5) HOMELESS SHELTER ALLOWANCE.—Under rules prescribed by the Secretary, a State agency may develop a standard homeless shelter allowance, which shall not exceed \$143 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the

households. The State agency may make a household with extremely low shelter costs ineligible for the allowance.

“(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

“(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds \$35 per month.

“(B) METHOD OF CLAIMING DEDUCTION.—

“(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information on, or verification of, actual expenses on a monthly basis.

“(ii) METHOD.—The method described in clause (i) shall—

“(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

“(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

“(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

“(7) EXCESS SHELTER EXPENSE DEDUCTION.—

“(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

“(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, the excess shelter expense deduction shall not exceed—

“(i) for the period beginning on the date of enactment of this subparagraph and ending on December 31, 1996, \$247, \$429, \$353, \$300, and \$182 per month, respectively;

“(ii) for the period beginning on January 1, 1997, and ending on September 30, 1998, \$250, \$434, \$357, \$304, and \$184 per month, respectively;

"(iii) for fiscal years 1999 and 2000, \$275, \$478, \$393, \$334, and \$203 per month, respectively; and

"(iv) for fiscal year 2001 and each subsequent fiscal year, \$300, \$521, \$429, \$364, and \$221 per month, respectively.

"(C) STANDARD UTILITY ALLOWANCE.—

"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

"(I) does not incur a heating or cooling expense, as the case may be;

"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

"(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

"(iii) MANDATORY ALLOWANCE.—

"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981

(42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

“(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

“(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of clause (ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

“(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.”.

(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(3)) is amended by striking “. Under rules prescribed” and all that follows through “verifies higher expenses”.

#### SEC. 810. VEHICLE ALLOWANCE.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:

“(2) INCLUDED ASSETS.—

“(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

“(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

“(i) any boat, snowmobile, or airplane used for recreational purposes;

“(ii) any vacation home;

“(iii) any mobile home used primarily for vacation purposes;

“(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds \$4,600 through September 30, 1996, and \$4,650 beginning October 1, 1996; and

“(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

“(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

“(i) used to produce earned income;

“(ii) necessary for the transportation of a physically disabled household member; or

“(iii) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.”.

**SEC. 811. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.**

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

**SEC. 812. SIMPLIFIED CALCULATION OF INCOME FOR THE SELF-EMPLOYED.**

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014), as amended by title I, is amended by adding at the end the following:

“(m) SIMPLIFIED CALCULATION OF INCOME FOR THE SELF-EMPLOYED.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish a procedure by which a State may submit a method, designed to not increase Federal costs, for the approval of the Secretary, that the Secretary determines will produce a reasonable estimate of income excluded under subsection (d)(9) in lieu of calculating the actual cost of producing self-employment income.

“(2) INCLUSIVE OF ALL TYPES OF INCOME OR LIMITED TYPES OF INCOME.—The method submitted by a State under paragraph (1) may allow a State to estimate income for all types of self-employment income or may be limited to 1 or more types of self-employment income.

“(3) DIFFERENCES FOR DIFFERENT TYPES OF INCOME.—The method submitted by a State under paragraph (1) may differ for different types of self-employment income.”.

**SEC. 813. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.**

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i), by striking “six months” and inserting “1 year”; and

(2) in clause (ii), by striking “1 year” and inserting “2 years”.

Regulations.

**SEC. 814. DISQUALIFICATION OF CONVICTED INDIVIDUALS.**

Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—

- (1) in subclause (II), by striking “or” at the end;
- (2) in subclause (III), by striking the period at the end and inserting “; or”; and
- (3) by inserting after subclause (III) the following:

“(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of \$500 or more.”.

**SEC. 815. DISQUALIFICATION.**

(a) **IN GENERAL.**—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking “(d)(1) Unless otherwise exempted by the provisions” and all that follows through the end of paragraph (1) and inserting the following:

“(d) **CONDITIONS OF PARTICIPATION.**—

“(1) **WORK REQUIREMENTS.**—

“(A) **IN GENERAL.**—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

“(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

“(ii) refuses without good cause to participate in an employment and training program established under paragraph (4), to the extent required by the State agency;

“(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

“(I) the applicable Federal or State minimum wage; or

“(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

“(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

“(v) voluntarily and without good cause—

“(I) quits a job; or

“(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

“(vi) fails to comply with section 20.

“(B) **HOUSEHOLD INELIGIBILITY.**—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) ADMINISTRATION.—

"(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

"(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

"(iii) DETERMINATION BY STATE AGENCY.—

"(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

"(aa) the meaning of any term used in subparagraph (A);

"(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

“(cc) whether an individual is in compliance with a requirement under subparagraph (A).

“(II) NOT LESS RESTRICTIVE.—A State agency may not use a meaning, procedure, or determination under subclause (I) that is less restrictive on individuals receiving benefits under this Act than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

“(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

“(v) SELECTING A HEAD OF HOUSEHOLD.—

“(I) IN GENERAL.—For purposes of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

“(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

“(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

“(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

“(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.”.

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(2)) is amended by striking “6(d)(1)(i)” and inserting “6(d)(1)(A)(i)”.

(2) Section 20 of the Food Stamp Act of 1977 (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

“(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.”.



**SEC. 816. CARETAKER EXEMPTION.**

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by adding at the end the following: "A State that requested a waiver to lower the age specified in subparagraph (B) and had the waiver denied by the Secretary as of August 1, 1996, may, for a period of not more than 3 years, lower the age of a dependent child that qualifies a parent or other member of a household for an exemption under subparagraph (B) to between 1 and 6 years of age."

**SEC. 817. EMPLOYMENT AND TRAINING.**

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) by striking "(4)(A) Not later than April 1, 1987, each" and inserting the following:

"(4) EMPLOYMENT AND TRAINING.—

"(A) IN GENERAL.—

"(i) IMPLEMENTATION.—Each";

(2) in subparagraph (A)—

(A) by inserting "work," after "skills, training,"; and  
(B) by adding at the end the following:

"(ii) STATEWIDE WORKFORCE DEVELOPMENT SYSTEM.—Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through such a system.";

(3) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: ", except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application";

(B) in clause (i), by striking "with terms and conditions" and all that follows through "time of application"; and

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;

(4) in subparagraph (D)—

(A) in clause (i), by striking "to which the application" and all that follows through "30 days or less";

(B) in clause (ii), by striking "but with respect" and all that follows through "child care"; and

(C) in clause (iii), by striking ", on the basis of" and all that follows through "clause (ii)" and inserting "the exemption continues to be valid";

(5) in subparagraph (E), by striking the third sentence;

(6) in subparagraph (G)—

(A) by striking "(G)(i) The State" and inserting "(G) The State"; and

(B) by striking clause (ii);

(7) in subparagraph (H), by striking "(H)(i) The Secretary" and all that follows through "(ii) Federal funds" and inserting "(H) Federal funds";

(8) in subparagraph (I)(i)(II), by striking ", or was in operation," and all that follows through "Social Security Act" and

inserting the following: “), except that no such payment or reimbursement shall exceed the applicable local market rate”;

(9)(A) by striking subparagraphs (K) and (L) and inserting the following:

“(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including funds used to carry out subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)”; and

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and

(10) in subparagraph (L), as so redesignated—

(A) by striking “(L)(i) The Secretary” and inserting “(L) The Secretary”; and

(B) by striking clause (ii).

(b) FUNDING.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended by striking “(h)(1)(A) The Secretary” and all that follows through the end of paragraph (1) and inserting the following:

“(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

“(1) IN GENERAL.—

“(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

“(i) for fiscal year 1996, \$75,000,000;

“(ii) for fiscal year 1997, \$79,000,000;

“(iii) for fiscal year 1998, \$81,000,000;

“(iv) for fiscal year 1999, \$84,000,000;

“(v) for fiscal year 2000, \$86,000,000;

“(vi) for fiscal year 2001, \$88,000,000; and

“(vii) for fiscal year 2002, \$90,000,000.

“(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).

“(C) REALLOCATION.—

“(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

“(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

“(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and train-

**SEC. 820. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 819, is amended by adding at the end the following:

“(j) **DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.**—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.”.

**SEC. 821. DISQUALIFICATION OF FLEEING FELONS.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 820, is amended by adding at the end the following:

“(k) **DISQUALIFICATION OF FLEEING FELONS.**—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

“(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

“(2) violating a condition of probation or parole imposed under a Federal or State law.”.

**SEC. 822. COOPERATION WITH CHILD SUPPORT AGENCIES.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 821, is amended by adding at the end the following:

“(l) **CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.**—

“(1) **IN GENERAL.**—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as ‘the individual’) who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

“(A) in establishing the paternity of the child (if the child is born out of wedlock); and

“(B) in obtaining support for—

“(i) the child; or

“(ii) the individual and the child.

“(2) **GOOD CAUSE FOR NONCOOPERATION.**—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services.

Regulations.

The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

“(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

“(m) NONCUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

“(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified noncustodial parent of a child under the age of 18 (referred to in this subsection as ‘the individual’) shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).—

“(A) in establishing the paternity of the child (if the child is born out of wedlock); and

“(B) in providing support for the child.

“(2) REFUSAL TO COOPERATE.—

“(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

“(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

“(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

“(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.”.

#### **SEC. 823. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 822, is amended by adding at the end the following:

“(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

“(1) IN GENERAL.—At the option of a State agency, no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

“(A) a court is allowing the individual to delay payment; or

“(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.”.

**SEC. 824. WORK REQUIREMENT.**

(a) **IN GENERAL.**—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 823, is amended by adding at the end the following:

“(o) **WORK REQUIREMENT.**—

“(1) **DEFINITION OF WORK PROGRAM.**—In this subsection, the term ‘work program’ means—

“(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

“(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); and

“(C) a program of employment and training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under subsection (d)(4), other than a job search program or a job search training program.

“(2) **WORK REQUIREMENT.**—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 36-month period, the individual received food stamp benefits for not less than 3 months (consecutive or otherwise) during which the individual did not—

“(A) work 20 hours or more per week, averaged monthly;

“(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency;

“(C) participate in and comply with the requirements of a program under section 20 or a comparable program established by a State or political subdivision of a State; or

“(D) receive benefits pursuant to paragraph (3), (4), or (5).

“(3) **EXCEPTION.**—Paragraph (2) shall not apply to an individual if the individual is—

“(A) under 18 or over 50 years of age;

“(B) medically certified as physically or mentally unfit for employment;

“(C) a parent or other member of a household with responsibility for a dependent child;

“(D) otherwise exempt under subsection (d)(2); or

“(E) a pregnant woman.

“(4) **WAIVER.**—

“(A) **IN GENERAL.**—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

“(i) has an unemployment rate of over 10 percent; or

“(ii) does not have a sufficient number of jobs to provide employment for the individuals.

“(B) **REPORT.**—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

**“(5) SUBSEQUENT ELIGIBILITY.—**

**“(A) REGAINING ELIGIBILITY.—**An individual denied eligibility under paragraph (2) shall regain eligibility to participate in the food stamp program if, during a 30-day period, the individual—

“(i) works 80 or more hours;

“(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

“(iii) participates in and complies with the requirements of a program under section 20 or a comparable program established by a State or political subdivision of a State.

**“(B) MAINTAINING ELIGIBILITY.—**An individual who regains eligibility under subparagraph (A) shall remain eligible as long as the individual meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

**“(C) LOSS OF EMPLOYMENT.—**

“(i) **IN GENERAL.—**An individual who regained eligibility under subparagraph (A) and who no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2) shall remain eligible for a consecutive 3-month period, beginning on the date the individual first notifies the State agency that the individual no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

“(ii) **LIMITATION.—**An individual shall not receive any benefits pursuant to clause (i) for more than a single 3-month period in any 36-month period.

**“(6) OTHER PROGRAM RULES.—**Nothing in this subsection shall make an individual eligible for benefits under this Act if the individual is not otherwise eligible for benefits under the other provisions of this Act.”

7 USC 2015 note.

**(b) TRANSITION PROVISION.—**The term “preceding 36-month period” in section 6(o) of the Food Stamp Act of 1977, as added by subsection (a), does not include, with respect to a State, any period before the earlier of—

(1) the date the State notifies recipients of food stamp benefits of the application of section 6(o); or

(2) the date that is 3 months after the date of enactment of this Act.

**SEC. 825. ENCOURAGEMENT OF ELECTRONIC BENEFIT TRANSFER SYSTEMS.**

**(a) IN GENERAL.—**Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—

(1) by striking “(i)(1)(A) Any State” and all that follows through the end of paragraph (1) and inserting the following:

**“(i) ELECTRONIC BENEFIT TRANSFERS.—**

**“(1) IN GENERAL.—**

**“(A) IMPLEMENTATION.—**Not later than October 1, 2002, each State agency shall implement an electronic benefit transfer system under which household benefits determined under section 8(a) or 26 are issued from and stored in a central databank, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

“(B) **TIMELY IMPLEMENTATION.**—Each State agency is encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

“(C) **STATE FLEXIBILITY.**—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

“(D) **OPERATION.**—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

“(i) commercial electronic funds transfer technology;

“(ii) the need to permit interstate operation and law enforcement monitoring; and

“(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.”;

(2) in paragraph (2)—

(A) by striking “effective no later than April 1, 1992,”;

(B) in subparagraph (A)—

(i) by striking “, in any 1 year,”; and

(ii) by striking “on-line”;

(C) by striking subparagraph (D) and inserting the following:

“(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

“(ii) effective not later than 2 years after the date of enactment of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment;”;

(D) in subparagraph (G), by striking “and” at the end;

(E) in subparagraph (H), by striking the period at the end and inserting “; and”; and

(F) by adding at the end the following:

“(I) procurement standards.”; and

(3) by adding at the end the following:

“(7) **REPLACEMENT OF BENEFITS.**—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper-based food stamp issuance system.

“(8) **REPLACEMENT CARD FEE.**—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

“(9) **OPTIONAL PHOTOGRAPHIC IDENTIFICATION.**—

“(A) **IN GENERAL.**—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

“(B) **OTHER AUTHORIZED USERS.**—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of

Effective date.

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the household or any authorized representative of the household may utilize the card.

"(10) APPLICABLE LAW.—Disclosures, protections, responsibilities, and remedies established by the Federal Reserve Board under section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) shall not apply to benefits under this Act delivered through any electronic benefit transfer system.

"(11) APPLICATION OF ANTI-TYING RESTRICTIONS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) AFFILIATE.—The term 'affiliate' has the meaning provided the term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

"(ii) COMPANY.—The term 'company' has the meaning provided the term in section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971), but shall not include a bank, a bank holding company, or any subsidiary of a bank holding company.

"(iii) ELECTRONIC BENEFIT TRANSFER SERVICE.—The term 'electronic benefit transfer service' means the processing of electronic transfers of household benefits, determined under section 8(a) or 26, if the benefits are—

"(I) issued from and stored in a central databank;

"(II) electronically accessed by household members at the point of sale; and

"(III) provided by a Federal or State government.

"(iv) POINT-OF-SALE SERVICE.—The term 'point-of-sale service' means any product or service related to the electronic authorization and processing of payments for merchandise at a retail food store, including credit or debit card services, automated teller machines, point-of-sale terminals, or access to on-line systems.

"(B) RESTRICTIONS.—A company may not sell or provide electronic benefit transfer services, or fix or vary the consideration for electronic benefit transfer services, on the condition or requirement that the customer—

"(i) obtain some additional point-of-sale service from the company or an affiliate of the company; or

"(ii) not obtain some additional point-of-sale service from a competitor of the company or competitor of any affiliate of the company.

"(C) CONSULTATION WITH THE FEDERAL RESERVE BOARD.—Before promulgating regulations or interpretations of regulations to carry out this paragraph, the Secretary shall consult with the Board of Governors of the Federal Reserve System."

(b) SENSE OF CONGRESS.—It is the sense of Congress that a State that operates an electronic benefit transfer system under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) should operate the system in a manner that is compatible with electronic benefit transfer systems operated by other States.



**SEC. 826. VALUE OF MINIMUM ALLOTMENT.**

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking “, and shall be adjusted” and all that follows through “\$5”.

**SEC. 827. BENEFITS ON RECERTIFICATION.**

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking “of more than one month”.

**SEC. 828. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.**

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

“(3) **OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.**—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.”.

**SEC. 829. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.**

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

“(d) **REDUCTION OF PUBLIC ASSISTANCE BENEFITS.**—

“(1) **IN GENERAL.**—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

“(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

“(B) the State agency may reduce the allotment of the household by not more than 25 percent.

“(2) **RULES AND PROCEDURES.**—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.”.

**SEC. 830. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.**

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

“(f) **ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.**—

“(1) **IN GENERAL.**—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

“(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

“(B) the individual, if the individual leaves the center.  
“(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.”.

**SEC. 831. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: “No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.”.

**SEC. 832. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.**

Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:

“(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.”.

**SEC. 833. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.**

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence, by inserting “, which may include relevant income and sales tax filing documents,” after “submit information”; and

(2) by inserting after the first sentence the following: “The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.”.

**SEC. 834. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.**

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: “A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.”.

**SEC. 835. OPERATION OF FOOD STAMP OFFICES.**

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020), as amended by sections 809(b) and 819(b), is amended—

(1) in subsection (e)—

(A) by striking paragraph (2) and inserting the following:

“(2)(A) that the State agency shall establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in areas in which a substantial number of members of low-income households speak a language other than English.

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“(B) In carrying out subparagraph (A), a State agency—

“(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the food stamp program;

“(ii) shall develop an application containing the information necessary to comply with this Act;

“(iii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a food stamp office in person during office hours;

“(iv) shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application;

“(v) shall require that an adult representative of each applicant household certify in writing, under penalty of perjury, that—

“(I) the information contained in the application is true; and

“(II) all members of the household are citizens or are aliens eligible to receive food stamps under section 6(f);

“(vi) shall provide a method of certifying and issuing coupons to eligible homeless individuals, to ensure that participation in the food stamp program is limited to eligible households; and

“(vii) may establish operating procedures that vary for local food stamp offices to reflect regional and local differences within the State.

“(C) Nothing in this Act shall prohibit the use of signatures provided and maintained electronically, storage of records using automated retrieval systems only, or any other feature of a State agency’s application system that does not rely exclusively on the collection and retention of paper applications or other records.

“(D) The signature of any adult under this paragraph shall be considered sufficient to comply with any provision of Federal law requiring a household member to sign an application or statement;”;

(B) in paragraph (3)—

(i) by striking “shall—” and all that follows through “provide each” and inserting “shall provide each”; and

(ii) by striking “(B) assist” and all that follows through “representative of the State agency;”;

(C) by striking paragraphs (14) and (25);  
 (D)(i) by redesignating paragraphs (15) through (24) as paragraphs (14) through (23), respectively; and  
 (ii) by redesignating paragraph (26), as paragraph (24); and

(2) in subsection (i)—

(A) by striking “(i) Notwithstanding” and all that follows through “(2)” and inserting the following:

“(i) APPLICATION AND DENIAL PROCEDURES.—

“(1) APPLICATION PROCEDURES.—Notwithstanding any other provision of law,”; and

(B) by striking “; (3) households” and all that follows through “title IV of the Social Security Act. No” and inserting a period and the following:

“(2) DENIAL AND TERMINATION.—Except in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no”.

#### SEC. 836. STATE EMPLOYEE AND TRAINING STANDARDS.

Section 11(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(6)) is amended—

(1) by striking “that (A) the” and inserting “that—  
 “(A) the”;

(2) by striking “Act; (B) the” and inserting “Act; and  
 “(B) the”;

(3) in subparagraph (B), by striking “United States Civil Service Commission” and inserting “Office of Personnel Management”; and

(4) by striking subparagraphs (C) through (E).

#### SEC. 837. EXCHANGE OF LAW ENFORCEMENT INFORMATION.

Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking “that (A) such” and inserting the following: “that—

“(A) the”;

(2) by striking “law, (B) notwithstanding” and inserting the following: “law;

“(B) notwithstanding”;

(3) by striking “Act, and (C) such” and inserting the following: “Act;

“(C) the”; and

(4) by adding at the end the following:

“(D) notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that—

“(i) the member—

“(I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or

“(II) has information that is necessary for the officer to conduct an official duty related to subclause (I);  
“(ii) locating or apprehending the member is an official duty; and  
“(iii) the request is being made in the proper exercise of an official duty; and  
“(E) the safeguards shall not prevent compliance with paragraph (16);”.

**SEC. 838. EXPEDITED COUPON SERVICE.**

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

- (1) in subparagraph (A), by striking “five days” and inserting “7 days”;
- (2) by striking subparagraph (B);
- (3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C);
- (4) in subparagraph (B), as redesignated by paragraph (3), by striking “five days” and inserting “7 days”; and
- (5) in subparagraph (C), as redesignated by paragraph (3), by striking “(B), or (C)” and inserting “or (B)”.

**SEC. 839. WITHDRAWING FAIR HEARING REQUESTS.**

Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: “At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing”.

Notice.

**SEC. 840. INCOME, ELIGIBILITY, AND IMMIGRATION STATUS VERIFICATION SYSTEMS.**

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended—

- (1) in subsection (e)(18), as redesignated by section 835(1)(D)—

(A) by striking “that information is” and inserting “at the option of the State agency, that information may be”; and

(B) by striking “shall be requested” and inserting “may be requested”; and

- (2) by adding at the end the following:

“(p) STATE VERIFICATION OPTION.—Notwithstanding any other provision of law, in carrying out the food stamp program, a State agency shall not be required to use an income and eligibility or an immigration status verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b-7).”.

**SEC. 841. INVESTIGATIONS.**

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: “Regulations issued pursuant to this Act shall provide criteria for the finding of a violation and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence that may

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include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.”.

**SEC. 842. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.**

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

- (1) in paragraph (2), by striking “and” at the end;
- (2) in paragraph (3), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:
 

“(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.”.

**SEC. 843. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.**

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

“(g) **DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.**—

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“(1) **IN GENERAL.**—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store or a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

“(2) **TERMS.**—A disqualification under paragraph (1)—

“(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

“(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

“(C) notwithstanding section 14, shall not be subject to judicial or administrative review.”.

**SEC. 844. COLLECTION OF OVERISSUANCES.**

(a) **COLLECTION OF OVERISSUANCES.**—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) **COLLECTION OF OVERISSUANCES.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

“(A) reducing the allotment of the household;

“(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

“(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

“(D) any other means.

“(2) **COST EFFECTIVENESS.**—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the

Secretary that all of the means referred to in paragraph (1) are not cost effective.

“(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

“(A) 10 percent of the monthly allotment of the household; or

“(B) \$10.

“(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.”; and

(2) in subsection (d)—

(A) by striking “as determined under subsection (b) and except for claims arising from an error of the State agency,” and inserting “, as determined under subsection (b)(1),”; and

(B) by inserting before the period at the end the following: “or a Federal income tax refund as authorized by section 3720A of title 31, United States Code”.

(b) CONFORMING AMENDMENTS.—Section 11(e)(8)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(C)) is amended—

(1) by striking “and excluding claims” and all that follows through “such section”; and

(2) by inserting before the semicolon at the end the following: “or a Federal income tax refund as authorized by section 3720A of title 31, United States Code”.

(c) RETENTION RATE.—The proviso of the first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking “25 percent during the period beginning October 1, 1990” and all that follows through “section 13(b)(2) which arise” and inserting “35 percent of the value of all funds or allotments recovered or collected pursuant to sections 6(b) and 13(c) and 20 percent of the value of any other funds or allotments recovered or collected, except the value of funds or allotments recovered or collected that arise”.

**SEC. 845. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.**

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

“(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or

Effective date.

judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.”.

**SEC. 846. EXPANDED CRIMINAL FORFEITURE FOR VIOLATIONS.**

(a) **FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.**—The first sentence of section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking “or intended to be furnished”.

(b) **CRIMINAL FORFEITURE.**—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by adding at the end the following:

“(h) **CRIMINAL FORFEITURE.**—

“(1) **IN GENERAL.**—In imposing a sentence on a person convicted of an offense in violation of subsection (b) or (c), a court shall order, in addition to any other sentence imposed under this section, that the person forfeit to the United States all property described in paragraph (2).

“(2) **PROPERTY SUBJECT TO FORFEITURE.**—All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of subsection (b) or (c), or proceeds traceable to a violation of subsection (b) or (c), shall be subject to forfeiture to the United States under paragraph (1).

“(3) **INTEREST OF OWNER.**—No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

“(4) **PROCEEDS.**—The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

“(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

“(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

“(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

“(D) fourth, by the Secretary to carry out the approval, reauthorization, and compliance investigations of retail stores and wholesale food concerns under section 9.”.

**SEC. 847. LIMITATION ON FEDERAL MATCH.**

Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: “but not including recruitment activities,”.

**SEC. 848. STANDARDS FOR ADMINISTRATION.**

(a) **IN GENERAL.**—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by striking subsection (b).

(b) **CONFORMING AMENDMENTS.**—

(1) The first sentence of section 11(g) of the Food Stamp Act of 1977 (7 U.S.C. 2020(g)) is amended by striking “the Secretary’s standards for the efficient and effective administration of the program established under section 16(b)(1) or”.



(2) Section 16(c)(1)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)(1)(B)) is amended by striking “pursuant to subsection (b)”.

**SEC. 849. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.**

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025), as amended by section 848(a), is amended by inserting after subsection (a) the following:

“(b) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

“(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term ‘work supplementation or support program’ means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

“(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

“(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

“(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

“(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

“(C) for purposes of—

“(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

“(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

“(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

“(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

“(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients

in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

“(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.”.

#### SEC. 850. WAIVER AUTHORITY.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) in subparagraph (A)—

(A) in the first sentence, by striking “benefits to eligible households, including” and inserting the following: “benefits to eligible households, and may waive any requirement of this Act to the extent necessary for the project to be conducted.

“(B) PROJECT REQUIREMENTS.—

“(i) PROGRAM GOAL.—The Secretary may not conduct a project under subparagraph (A) unless—

“(I) the project is consistent with the goal of the food stamp program of providing food assistance to raise levels of nutrition among low-income individuals; and

“(II) the project includes an evaluation to determine the effects of the project.

“(ii) PERMISSIBLE PROJECTS.—The Secretary may conduct a project under subparagraph (A) to—

“(I) improve program administration;

“(II) increase the self-sufficiency of food stamp recipients;

“(III) test innovative welfare reform strategies; or

“(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.

“(iii) RESTRICTIONS ON PERMISSIBLE PROJECTS.—

If the Secretary finds that a project under subparagraph (A) would reduce benefits by more than 20 percent for more than 5 percent of households in the area subject to the project (not including any household whose benefits are reduced due to a failure to comply with work or other conduct requirements), the project—

“(I) may not include more than 15 percent of the State’s food stamp households; and

“(II) shall continue for not more than 5 years after the date of implementation, unless the Secretary approves an extension requested by the State agency at any time.

“(iv) IMPERMISSIBLE PROJECTS.—The Secretary may not conduct a project under subparagraph (A) that—

“(I) involves the payment of the value of an allotment in the form of cash, unless the project was approved prior to the date of enactment of this subparagraph;

“(II) has the effect of substantially transferring funds made available under this Act to services or benefits provided primarily through another public assistance program, or using the funds for any purpose other than the purchase of food, program administration, or an employment or training program;

“(III) is inconsistent with—

“(aa) the last 2 sentences of section 3(i);

“(bb) the last sentence of section 5(a), insofar as a waiver denies assistance to an otherwise eligible household or individual if the household or individual has not failed to comply with any work, behavioral, or other conduct requirement under this or another program;

“(cc) section 5(c)(2);

“(dd) paragraph (2)(B), (4)(F)(i), or (4)(K) of section 6(d);

“(ee) section 8(b);

“(ff) section 11(e)(2)(B);

“(gg) the time standard under section 11(e)(3);

“(hh) subsection (a), (c), (g), (h)(2), or (h)(3) of section 16;

“(ii) this paragraph; or

“(jj) subsection (a)(1) or (g)(1) of section 20;

“(IV) modifies the operation of section 5 so as to have the effect of—

“(aa) increasing the shelter deduction to households with no out-of-pocket housing costs or housing costs that consume a low percentage of the household’s income; or

“(bb) absolving a State from acting with reasonable promptness on substantial reported changes in income or household size (except that this subclause shall not apply with regard to changes related to food stamp deductions);

“(V) is not limited to a specific time period; or

“(VI) waives a provision of section 26.

“(v) ADDITIONAL INCLUDED PROJECTS.—A pilot or experimental project may include”;

(B) by striking “to aid to families with dependent children under part A of title IV of the Social Security Act” and inserting “are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)”; and

(C) by striking “coupons. The Secretary” and all that follows through “Any pilot” and inserting the following: “coupons.

“(vi) CASH PAYMENT PILOT PROJECTS.—Any pilot”.

**SEC. 851. RESPONSE TO WAIVERS.**

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)), as amended by section 850, is amended by adding at the end the following:

**“(D) RESPONSE TO WAIVERS.—**

**“(i) RESPONSE.—**Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—

**“(I) approves the waiver request;**

**“(II) denies the waiver request and describes any modification needed for approval of the waiver request;**

**“(III) denies the waiver request and describes the grounds for the denial; or**

**“(IV) requests clarification of the waiver request.**

**“(ii) FAILURE TO RESPOND.—**If the Secretary does not provide a response in accordance with clause (i), the waiver shall be considered approved, unless the approval is specifically prohibited by this Act.

**“(iii) NOTICE OF DENIAL.—**On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and a description of the reasons for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.”.

**SEC. 852. EMPLOYMENT INITIATIVES PROGRAM.**

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:

**“(d) EMPLOYMENT INITIATIVES PROGRAM.—**

**“(1) ELECTION TO PARTICIPATE.—**

**“(A) IN GENERAL.—**Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

**“(B) REQUIREMENT.—**A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households in the State that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

**“(2) PROCEDURE.—**

**“(A) IN GENERAL.—**A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

**“(B) PAYMENT.—**The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household participating in the

program in the State would be eligible to receive under this Act but for the operation of this subsection.

“(C) OTHER PROVISIONS.—For purposes of the food stamp program (other than this subsection)—

“(i) cash assistance under this subsection shall be considered to be an allotment; and

“(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit during the period for which the cash assistance is provided.

“(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

“(i) increase the cash benefits provided to each household participating in the program in the State under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by the household, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

“(ii) pay the cost of any increase in cash benefits required by clause (i).

“(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

“(A) has worked in unsubsidized employment for not less than the preceding 90 days;

“(B) has earned not less than \$350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

“(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

“(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

“(D) is continuing to earn not less than \$350 per month from the employment referred to in subparagraph (A); and

“(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

“(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.”

#### SEC. 853. REAUTHORIZATION.

The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking “1991 through 1997” and inserting “1996 through 2002”.

**SEC. 854. SIMPLIFIED FOOD STAMP PROGRAM.**

(a) **IN GENERAL.**—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

7 USC 2035.

**“SEC. 26. SIMPLIFIED FOOD STAMP PROGRAM.**

“(a) **DEFINITION OF FEDERAL COSTS.**—In this section, the term ‘Federal costs’ does not include any Federal costs incurred under section 17.

“(b) **ELECTION.**—Subject to subsection (d), a State may elect to carry out a Simplified Food Stamp Program (referred to in this section as a ‘Program’), statewide or in a political subdivision of the State, in accordance with this section.

“(c) **OPERATION OF PROGRAM.**—If a State elects to carry out a Program, within the State or a political subdivision of the State—

“(1) a household in which no members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may not participate in the Program;

“(2) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program;

“(3) if approved by the Secretary, a household in which 1 or more members but not all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be eligible to participate in the Program; and

“(4) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

“(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

“(B) the food stamp program; or

“(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program.

“(d) **APPROVAL OF PROGRAM.**—

“(1) **STATE PLAN.**—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

“(2) **APPROVAL OF PLAN.**—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

“(A) complies with this section; and

“(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

“(e) **INCREASED FEDERAL COSTS.**—

“(1) **DETERMINATION.**—

“(A) **IN GENERAL.**—The Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act.

“(B) **NO EXCLUDED HOUSEHOLDS.**—In making a determination under subparagraph (A), the Secretary shall not require the State agency to collect or report any information on households not included in the Program.

“(C) **ALTERNATIVE ACCOUNTING PERIODS.**—The Secretary may approve the request of a State agency to apply

alternative accounting periods to determine if Federal costs do not exceed the Federal costs had the State agency not elected to carry out the Program.

“(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State not later than 30 days after the Secretary makes the determination under paragraph (1).

“(3) ENFORCEMENT.—

“(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

“(B) TERMINATION.—If the State does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency operating the Program and the State agency shall be ineligible to operate a future Program.

“(f) RULES AND PROCEDURES.—

“(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

“(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State or political subdivision of a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

“(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

“(A) subsections (a) through (g) of section 7;

“(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

“(C) subsection (b) and (d) of section 8;

“(D) subsections (a), (c), (d), and (n) of section 11;

“(E) paragraphs (8), (12), (16), (18), (20), (24), and (25) of section 11(e);

“(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

“(G) section 16.

“(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.”.

(b) **STATE PLAN PROVISIONS.**—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)), as amended by sections 819(b) and 835, is amended by adding at the end the following:

“(25) if a State elects to carry out a Simplified Food Stamp Program under section 26, the plans of the State agency for operating the program, including—

“(A) the rules and procedures to be followed by the State agency to determine food stamp benefits;

“(B) how the State agency will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

“(C) a description of the method by which the State agency will carry out a quality control system under section 16(c).”

(c) **CONFORMING AMENDMENTS.**—

(1) Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017), as amended by section 830, is amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(2) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.

7 USC 2026 note.

**SEC. 855. STUDY OF THE USE OF FOOD STAMPS TO PURCHASE VITAMINS AND MINERALS.**

(a) **IN GENERAL.**—The Secretary of Agriculture, in consultation with the National Academy of Sciences and the Center for Disease Control and Prevention, shall conduct a study on the use of food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to purchase vitamins and minerals.

(b) **ANALYSIS.**—The study shall include—

(1) an analysis of scientific findings on the efficacy of and need for vitamins and minerals, including—

(A) the adequacy of vitamin and mineral intakes in low-income populations, as shown by research and surveys conducted prior to the study; and

(B) the potential value of nutritional supplements in filling nutrient gaps that may exist in the United States population as a whole or in vulnerable subgroups in the population;

(2) the impact of nutritional improvements (including vitamin or mineral supplementation) on the health status and health care costs of women of childbearing age, pregnant or lactating women, and the elderly;

(3) the cost of commercially available vitamin and mineral supplements;

(4) the purchasing habits of low-income populations with regard to vitamins and minerals;

(5) the impact of using food stamps to purchase vitamins and minerals on the food purchases of low-income households; and

(6) the economic impact on the production of agricultural commodities of using food stamps to purchase vitamins and minerals.



(c) **REPORT.**—Not later than December 15, 1998, the Secretary shall report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

**SEC. 856. DEFICIT REDUCTION.**

It is the sense of the Committee on Agriculture of the House of Representatives that reductions in outlays resulting from this title shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902).

## **Subtitle B—Commodity Distribution Programs**

**SEC. 871. EMERGENCY FOOD ASSISTANCE PROGRAM.**

(a) **DEFINITIONS.**—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended to read as follows:

**“SEC. 201A. DEFINITIONS.**

“In this Act:

“(1) **ADDITIONAL COMMODITIES.**—The term ‘additional commodities’ means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

“(2) **AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.**—The term ‘average monthly number of unemployed persons’ means the average monthly number of unemployed persons in each State during the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

“(3) **ELIGIBLE RECIPIENT AGENCY.**—The term ‘eligible recipient agency’ means a public or nonprofit organization that—

“(A) administers—

“(i) an emergency feeding organization;

“(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

“(iii) a summer camp for children, or a child nutrition program providing food service;

“(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

“(v) a disaster relief program;

“(B) has been designated by the appropriate State agency, or by the Secretary; and

“(C) has been approved by the Secretary for participation in the program established under this Act.

“(4) **EMERGENCY FEEDING ORGANIZATION.**—The term ‘emergency feeding organization’ means a public or nonprofit organization that administers activities and projects (including

the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

“(5) **FOOD BANK.**—The term ‘food bank’ means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

“(6) **FOOD PANTRY.**—The term ‘food pantry’ means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

“(7) **POVERTY LINE.**—The term ‘poverty line’ has the meaning provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(8) **SOUP KITCHEN.**—The term ‘soup kitchen’ means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

“(9) **TOTAL VALUE OF ADDITIONAL COMMODITIES.**—The term ‘total value of additional commodities’ means the actual cost of all additional commodities that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

“(10) **VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.**—The term ‘value of additional commodities allocated to each State’ means the actual cost of additional commodities allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).”

(b) **STATE PLAN.**—Section 202A of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended to read as follows:

**“SEC. 202A. STATE PLAN.**

“(a) **IN GENERAL.**—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

“(b) **REQUIREMENTS.**—Each plan shall—

“(1) designate the State agency responsible for distributing the commodities received under this Act;

“(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

“(3) set forth the standards of eligibility for recipient agencies; and

“(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

“(A) individuals or households to be comprised of needy persons; and

“(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

“(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all entities in the State, both public and private, interested in the distribution of commodities received under this Act.”

(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence, by striking “for State and local” and all that follows through “under this title” and inserting “to pay for the direct and indirect administrative costs of the States related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources”; and

(2) by striking the fourth sentence.

(d) DELIVERY OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) through (e) and (j);

(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;

(3) in subsection (b), as redesignated by paragraph (2)—

(A) in the first sentence, by striking “subsection (f) or subsection (j) if applicable,” and inserting “subsection (a),”; and

(B) in the second sentence, by striking “subsection (f)” and inserting “subsection (a)”; and

(4) by striking subsection (c), as redesignated by paragraph (2), and inserting the following:

“(c) ADMINISTRATION.—

“(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.

“(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a).”; and

(5) in subsection (d), as redesignated by paragraph (2), by striking “or reduce” and all that follows through “each fiscal year”.

(e) TECHNICAL AMENDMENTS.—The Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of section 203B(a), by striking “203 and 203A of this Act” and inserting “203A”;

(2) in section 204(a), by striking “title” each place it appears and inserting “Act”;

(3) in the first sentence of section 210(e), by striking “(except as otherwise provided for in section 214(j))”; and

(4) by striking section 212.

(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 612c note) is repealed.

(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 854(a), is amended by adding at the end the following:

7 USC 2036.

**“SEC. 27. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.**

“(a) PURCHASE OF COMMODITIES.—From amounts made available to carry out this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase \$100,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled ‘An Act to amend the Agricultural Adjustment Act, and for other purposes’, approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note).

“(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

“(1) agricultural market conditions;

“(2) preferences and needs of States and distributing agencies; and

“(3) preferences of recipients.”.

7 USC 612c note.

(h) EFFECTIVE DATE.—The amendments made by subsection (d) shall become effective on October 1, 1996.

**SEC. 872. FOOD BANK DEMONSTRATION PROJECT.**

Section 3 of the Charitable Assistance and Food Bank Act of 1987 (Public Law 100-232; 7 U.S.C. 612c note) is repealed.

**SEC. 873. HUNGER PREVENTION PROGRAMS.**

The Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended—

(1) by striking section 110;

(2) by striking subtitle C of title II; and

(3) by striking section 502.

**SEC. 874. REPORT ON ENTITLEMENT COMMODITY PROCESSING.**

Section 1773 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 612c note) is amended by striking subsection (f).

## Subtitle C—Electronic Benefit Transfer Systems

**SEC. 891. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.**

Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) by striking “(d) In the event that” and inserting “(d) APPLICABILITY TO SERVICE PROVIDERS OTHER THAN CERTAIN FINANCIAL INSTITUTIONS.—

“(1) IN GENERAL.—If”; and

(2) by adding at the end the following:

**“(2) STATE AND LOCAL GOVERNMENT ELECTRONIC BENEFIT TRANSFER SYSTEMS.—**

**“(A) DEFINITION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—**In this paragraph, the term ‘electronic benefit transfer system’—

**“(i) means** a system under which a government agency distributes needs-tested benefits by establishing accounts that may be accessed by recipients electronically, such as through automated teller machines or point-of-sale terminals; and

**“(ii) does not include** employment-related payments, including salaries and pension, retirement, or unemployment benefits established by a Federal, State, or local government agency.

**“(B) EXEMPTION GENERALLY.—**The disclosures, protections, responsibilities, and remedies established under this title, and any regulation prescribed or order issued by the Board in accordance with this title, shall not apply to any electronic benefit transfer system established under State or local law or administered by a State or local government.

**“(C) EXCEPTION FOR DIRECT DEPOSIT INTO RECIPIENT’S ACCOUNT.—**Subparagraph (B) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer system for a deposit directly into a consumer account held by the recipient of the benefit.

**“(D) RULE OF CONSTRUCTION.—**No provision of this paragraph—

**“(i) affects or alters** the protections otherwise applicable with respect to benefits established by any other provision Federal, State, or local law; or

**“(ii) otherwise supersedes** the application of any State or local law.”.

## **TITLE IX—MISCELLANEOUS**

### **SEC. 901. APPROPRIATION BY STATE LEGISLATURES.**

42 USC 601 note.

(a) **IN GENERAL.—**Any funds received by a State under the provisions of law specified in subsection (b) shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

(b) **PROVISIONS OF LAW.—**The provisions of law specified in this subsection are the following:

(1) Part A of title IV of the Social Security Act (relating to block grants for temporary assistance for needy families).

(2) The Child Care and Development Block Grant Act of 1990 (relating to block grants for child care).

### **SEC. 902. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES.**

21 USC 862b.

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances.

**SEC. 903. ELIMINATION OF HOUSING ASSISTANCE WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.**

(a) **ELIGIBILITY FOR ASSISTANCE.**—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

42 USC 1437d.

(1) in section 6(l)—

(A) in paragraph (5), by striking “and” at the end;

(B) in paragraph (6), by striking the period at the end and inserting “; and”; and

(C) by inserting immediately after paragraph (6) the following new paragraph:

“(7) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

“(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

“(2) is violating a condition of probation or parole imposed under Federal or State law.”; and

42 USC 1437f.

(2) in section 8(d)(1)(B)—

(A) in clause (iii), by striking “and” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; and”; and

(C) by adding after clause (iv) the following new clause:

“(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

“(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

“(II) is violating a condition of probation or parole imposed under Federal or State law;”.

(b) **PROVISION OF INFORMATION TO LAW ENFORCEMENT AGENCIES.**—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

42 USC 1437z.

**“SEC. 27. EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.**

“Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer—

“(1) furnishes the public housing agency with the name of the recipient; and

“(2) notifies the agency that—

“(A) such recipient—

“(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

“(ii) is violating a condition of probation or parole imposed under Federal or State law; or

“(iii) has information that is necessary for the officer to conduct the officer’s official duties;

“(B) the location or apprehension of the recipient is within such officer’s official duties; and

“(C) the request is made in the proper exercise of the officer’s official duties.”.

**SEC. 904. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NONCUSTODIAL PARENT TO PAY CHILD SUPPORT.**

It is the sense of the Senate that—

(a) States should diligently continue their efforts to enforce child support payments by the non-custodial parent to the custodial parent, regardless of the employment status or location of the non-custodial parent; and

(b) States are encouraged to pursue pilot programs in which the parents of a non-adult, non-custodial parent who refuses to or is unable to pay child support must—

(1) pay or contribute to the child support owed by the non-custodial parent; or

(2) otherwise fulfill all financial obligations and meet all conditions imposed on the non-custodial parent, such as participation in a work program or other related activity.

**SEC. 905. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES.**

42 USC 710 note.

(a) **IN GENERAL.**—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(1) preventing out-of-wedlock teenage pregnancies, and

(2) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(b) **REPORT.**—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with respect to the progress that has been made in meeting the goals described in paragraphs (1) and (2) of subsection (a).

**SEC. 906. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS.**

42 USC 14016.

(a) **SENSE OF THE SENATE.**—It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

(b) **JUSTICE DEPARTMENT PROGRAM ON STATUTORY RAPE.**—Not later than January 1, 1997, the Attorney General shall establish and implement a program that—

Establishment.

(1) studies the linkage between statutory rape and teenage pregnancy, particularly by predatory older men committing repeat offenses; and

(2) educates State and local criminal law enforcement officials on the prevention and prosecution of statutory rape, focusing in particular on the commission of statutory rape by predatory older men committing repeat offenses, and any links to teenage pregnancy.

(c) **VIOLENCE AGAINST WOMEN INITIATIVE.**—The Attorney General shall ensure that the Department of Justice's Violence Against Women initiative addresses the issue of statutory rape, particularly the commission of statutory rape by predatory older men committing repeat offenses.

**SEC. 907. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.**

Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) by striking “(d) In the event” and inserting “(d) **APPLICABILITY TO SERVICE PROVIDERS OTHER THAN CERTAIN FINANCIAL INSTITUTIONS.**—

“(1) **IN GENERAL.**—In the event”; and

(2) by adding at the end the following new paragraph:

“(2) **STATE AND LOCAL GOVERNMENT ELECTRONIC BENEFIT TRANSFER PROGRAMS.**—

“(A) **EXEMPTION GENERALLY.**—The disclosures, protections, responsibilities, and remedies established under this title, and any regulation prescribed or order issued by the Board in accordance with this title, shall not apply to any electronic benefit transfer program established under State or local law or administered by a State or local government.

“(B) **EXCEPTION FOR DIRECT DEPOSIT INTO RECIPIENT'S ACCOUNT.**—Subparagraph (A) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer program for deposits directly into a consumer account held by the recipient of the benefit.

“(C) **RULE OF CONSTRUCTION.**—No provision of this paragraph may be construed as—

“(i) affecting or altering the protections otherwise applicable with respect to benefits established by Federal, State, or local law; or

“(ii) otherwise superseding the application of any State or local law.

“(D) **ELECTRONIC BENEFIT TRANSFER PROGRAM DEFINED.**—For purposes of this paragraph, the term ‘electronic benefit transfer program’—

“(i) means a program under which a government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals; and

“(ii) does not include employment-related payments, including salaries and pension, retirement, or unemployment benefits established by Federal, State, or local governments.”.

**SEC. 908. REDUCTION OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES; USE OF VOUCHERS.**

(a) **REDUCTION OF GRANTS.**—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—



(1) by striking “and” at the end of paragraph (4); and  
(2) by striking paragraph (5) and inserting the following:  
“(5) \$2,800,000,000 for each of the fiscal years 1990 through 1995;

“(6) \$2,381,000,000 for the fiscal year 1996;

“(7) \$2,380,000,000 for each of the fiscal years 1997 through 2002; and

“(8) \$2,800,000,000 for the fiscal year 2003 and each succeeding fiscal year.”.

(b) **AUTHORITY TO USE VOUCHERS.**—Section 2002 of such Act (42 U.S.C. 1397a) is amended by adding at the end the following: 42 USC 1397a.

“(f) A State may use funds provided under this title to provide vouchers, for services directed at the goals set forth in section 2001, to families, including—

“(1) families who have become ineligible for assistance under a State program funded under part A of title IV by reason of a durational limit on the provision of such assistance; and

“(2) families denied cash assistance under the State program funded under part A of title IV for a child who is born to a member of the family who is—

“(A) a recipient of assistance under the program; or

“(B) a person who received such assistance at any time during the 10-month period ending with the birth of the child.”.

**SEC. 909. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.**

(a) **REDUCTION IN DISQUALIFIED INCOME THRESHOLD.**—

(1) **IN GENERAL.**—Paragraph (1) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended by striking “\$2,350” and inserting “\$2,200”.

(2) **ADJUSTMENT FOR INFLATION.**—Subsection (j) of section 32 of such Code is amended to read as follows:

“(j) **INFLATION ADJUSTMENTS.**—

“(1) **IN GENERAL.**—In the case of any taxable year beginning after 1996, each of the dollar amounts in subsections (b)(2) and (i)(1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 1995’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) **ROUNDING.**—

“(A) **IN GENERAL.**—If any dollar amount in subsection (b)(2), after being increased under paragraph (1), is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10.

“(B) **DISQUALIFIED INCOME THRESHOLD AMOUNT.**—If the dollar amount in subsection (i)(1), after being increased under paragraph (1), is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.”.

(3) **CONFORMING AMENDMENT.**—Paragraph (2) of section 32(b) of such Code is amended to read as follows:

“(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child .....	\$6,330	\$11,610
2 or more qualifying children.	\$8,890	\$11,610
No qualifying children	\$4,220	\$ 5,280”.

(b) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) of such Code (defining disqualified income) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding at the end the following new subparagraphs:

“(D) the capital gain net income (as defined in section 1222) of the taxpayer for such taxable year, and

“(E) the excess (if any) of—

“(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount included in earned income under subsection (c)(2) or described in a preceding subparagraph), over

“(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (E), the term ‘passive activity’ has the meaning given such term by section 469.”.

26 USC 32 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) ADVANCE PAYMENT INDIVIDUALS.—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual’s taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

#### SEC. 910. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2)(B), (c)(1)(C), and (f)(2)(B) of section 32 of the Internal Revenue Code of 1986 are each amended by striking “adjusted gross income” each place it appears and inserting “modified adjusted gross income”.

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(5) MODIFIED ADJUSTED GROSS INCOME.—

“(A) IN GENERAL.—The term ‘modified adjusted gross income’ means adjusted gross income determined without regard to the amounts described in subparagraph (B).

“(B) CERTAIN AMOUNTS DISREGARDED.—An amount is described in this subparagraph if it is—

“(i) the amount of losses from sales or exchanges of capital assets in excess of gains from such sales

or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

“(ii) the net loss from estates and trusts,

“(iii) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties), and

“(iv) 50 percent of the net loss from the carrying on of trades or businesses, computed separately with respect to—

“(I) trades or businesses (other than farming) conducted as sole proprietorships,

“(II) trades or businesses of farming conducted as sole proprietorships, and

“(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.”.

(c) **EFFECTIVE DATES.**—

26 USC 32 note.

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) **ADVANCE PAYMENT INDIVIDUALS.**—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual's taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 911. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS.**

42 USC 608a.

(a) **IN GENERAL.**—If an individual's benefits under a Federal, State, or local law relating to a means-tested welfare or a public assistance program are reduced because of an act of fraud by the individual under the law or program, the individual may not, for the duration of the reduction, receive an increased benefit under any other means-tested welfare or public assistance program for which Federal funds are appropriated as a result of a decrease in the income of the individual (determined under the applicable program) attributable to such reduction.

(b) **WELFARE OR PUBLIC ASSISTANCE PROGRAMS FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.**—For purposes of subsection (a), the term “means-tested welfare or public assistance program for which Federal funds are appropriated” includes the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any program of public or assisted housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), and any State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

**SEC. 912. ABSTINENCE EDUCATION.**

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following section:

“SEPARATE PROGRAM FOR ABSTINENCE EDUCATION

“SEC. 510. (a) For the purpose described in subsection (b), the Secretary shall, for fiscal year 1998 and each subsequent fiscal

42 USC 710.

year, allot to each State which has transmitted an application for the fiscal year under section 505(a) an amount equal to the product of—

“(1) the amount appropriated in subsection (d) for the fiscal year; and

“(2) the percentage determined for the State under section 502(c)(1)(B)(ii).

“(b)(1) The purpose of an allotment under subsection (a) to a State is to enable the State to provide abstinence education, and at the option of the State, where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock.

“(2) For purposes of this section, the term ‘abstinence education’ means an educational or motivational program which—

“(A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

“(B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

“(C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

“(D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

“(E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

“(F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child’s parents, and society;

“(G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

“(H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

“(c)(1) Sections 503, 507, and 508 apply to allotments under subsection (a) to the same extent and in the same manner as such sections apply to allotments under section 502(c).

“(2) Sections 505 and 506 apply to allotments under subsection (a) to the extent determined by the Secretary to be appropriate.

“(d) For the purpose of allotments under subsection (a), there is appropriated, out of any money in the Treasury not otherwise appropriated, an additional \$50,000,000 for each of the fiscal years 1998 through 2002. The appropriation under the preceding sentence for a fiscal year is made on October 1 of the fiscal year.”.

Appropriation  
authorization.

Effective date.

Effective date.

#### SEC. 913. CHANGE IN REFERENCE.

Effective January 1, 1997, the third sentence of section 1902(a) and section 1908(e)(1) of the Social Security Act (42 U.S.C. 1396a(a), 1396g-1(e)(1)) are each amended by striking “The First Church of Christ, Scientist, Boston, Massachusetts” and inserting “The

Commission for Accreditation of Christian Science Nursing  
Organizations/Facilities, Inc.” each place it appears.

Approved August 22, 1996.

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LEGISLATIVE HISTORY—H.R. 3734 (S. 1956):

HOUSE REPORTS: Nos. 104-651 (Comm. on the Budget) and 104-725 (Comm. of  
Conference).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 17, 18, considered and passed House.

July 18, 19, 22, 23, considered and passed Senate, amended, in lieu of  
S. 1956.

July 31, House agreed to conference report.

Aug. 1, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 22, Presidential remarks and statement.

Public Law 104-194  
104th Congress

An Act

Sept. 9, 1996  
[H.R. 3845]

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes.

District of  
Columbia  
Appropriations  
Act, 1997.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1997, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1997, \$660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), \$52,070,000.

PRESIDENTIAL INAUGURATION

For payment to the District of Columbia in lieu of reimbursement for expenses incurred in connection with Presidential inauguration activities, \$5,702,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 1-1803), which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

FEDERAL CONTRIBUTION FOR REPAIR OF DRINKING WATER SYSTEM

For a Federal contribution to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with a private entity (or entities) to carry out a program to inspect, flush, and repair the drinking water distribution system of the District of Columbia, \$1,000,000.

## DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

## GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$115,663,000 and 1,440 full-time equivalent positions (including \$98,691,000 and 1,371 full-time equivalent positions from local funds, \$12,192,000 and 8 full-time equivalent positions from Federal funds, and \$4,780,000 and 61 full-time equivalent positions from other funds): *Provided*, That funds expended for the Office of the Mayor are not to exceed \$2,109,000, of which \$632,000 is from intra-District funds: *Provided further*, That \$327,000 of the funds for the Office of the Mayor shall be transferred to the Department of Administrative Services as reimbursement for occupancy costs, including costs for telephone, electricity and other services: *Provided further*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues.

## ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$135,704,000 and 1,501 full-time equivalent positions (including \$67,196,000 and 720 full-time equivalent positions from local funds, \$45,708,000 and 524 full-time equivalent positions from Federal funds, and \$22,800,000 and 257 full-time equivalent positions from other funds).

## PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, \$1,041,281,000 and 11,842 full-time equivalent positions (including \$1,012,112,000 and 11,726 full-time equivalent positions from local funds, \$19,310,000 and 112 full-time equivalent positions from Federal funds, and \$9,859,000 and 4 full-time equivalent positions from other funds): *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall pro-

Reports.

Communications.  
Prisons.  
Virginia.

vide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed \$1,500 for the Chief Judge of the District of Columbia Court of Appeals, \$1,500 for the Chief Judge of the Superior Court of the District of Columbia, and \$1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed \$100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1997, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided fur-*



*ther*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

#### PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$758,815,000 and 11,276 full-time equivalent positions (including \$632,379,000 and 10,045 full-time equivalent positions from local funds, \$98,479,000 and 1,009 full-time equivalent positions from Federal funds, and \$27,957,000 and 222 full-time equivalent positions from other funds), to be allocated as follows: \$573,430,000 and 9,935 full-time equivalent positions (including \$479,679,000 and 9,063 full-time equivalent positions from local funds, \$85,823,000 and 840 full-time equivalent positions from Federal funds, and \$7,928,000 and 32 full-time equivalent positions from other funds), for the public schools of the District of Columbia; \$2,835,000 from local funds for public charter schools: *Provided*, That if the entirety of this allocation has not been provided as payments to one or more public charter schools by May 1, 1997, and remains unallocated, the funds will revert to the general fund of the District of Columbia in accordance with section 2403(a)(2)(D) of the District of Columbia School Reform Act of 1995 (Public Law 104-134); \$88,100,000 from local funds for the District of Columbia Teachers' Retirement Fund; \$69,801,000 and 917 full-time equivalent positions (including \$38,479,000 and 572 full-time equivalent positions from local funds, \$11,747,000 and 156 full-time equivalent positions from Federal funds, and \$19,575,000 and 189 full-time equivalent positions from other funds) for the University of the District of Columbia; \$22,429,000 and 415 full-time equivalent positions (including \$21,529,000 and 408 full-time equivalent positions from local funds, \$446,000 and 6 full-time equivalent positions from Federal funds, and \$454,000 and 1 full-time equivalent position from other funds) for the Public Library; \$2,220,000 and 9 full-time equivalent positions (including \$1,757,000 and 2 full-time equivalent positions from local funds and \$463,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be available from this appropriation for official purposes: *Provided further*, That not less than \$9,200,000 shall be available from this appropriation for school repairs in a restricted line item: *Provided further*, That not less than \$1,200,000 shall be available for local school allotments in a restricted line item: *Provided further*, That not less than \$4,500,000 shall be available to support kindergarten aides in a restricted line item: *Provided further*, That not less than \$2,800,000 shall be available to support substitute teachers in a restricted line item: *Provided further*, That not less than \$1,788,000 shall be available in a restricted line item for school counselors: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents

of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1997, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

#### HUMAN SUPPORT SERVICES

Human support services, \$1,685,707,000 and 6,344 full-time equivalent positions (including \$961,399,000 and 3,814 full-time equivalent positions from local funds, \$676,665,000 and 2,444 full-time equivalent positions from Federal funds, and \$47,643,000 and 86 full-time equivalent positions from other funds): *Provided*, That \$24,793,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

#### PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, \$247,967,000 and 1,252 full-time equivalent positions (including \$234,391,000 and 1,149 full-time equivalent positions from local funds, \$3,047,000 and 32 full-time equivalent positions from Federal funds, and \$10,529,000 and 71 full-time equivalent positions from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

#### WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, \$5,400,000 from local funds.

#### REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commis-

sioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, \$333,710,000 from local funds.

#### REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990, \$38,314,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)(1)).

#### PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$34,461,000 from local funds.

#### PRESIDENTIAL INAUGURATION

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), \$5,702,000, which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

#### CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, \$7,926,000.

#### HUMAN RESOURCES DEVELOPMENT

For Human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, \$12,257,000.

#### COST REDUCTION INITIATIVES

The Chief Financial Officer of the District of Columbia shall, on behalf of the Mayor and under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority, make reductions of \$47,411,000 and 2,411 full-time equivalent positions as follows: \$4,488,000 in real estate initiatives, \$6,317,000 in management information systems, \$2,271,000 in energy cost initiatives, \$12,960,000 in purchasing and procurement initiatives, and workforce reductions of 2,411 full-time positions and \$21,375,000.

## CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

Expiration date.

For construction projects, an increase of \$46,923,000 (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 through 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

## WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, \$221,362,000 from other funds of which \$41,833,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

## LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), \$247,900,000 and 100 full-time equivalent positions (including \$7,850,000 and 100 full-time equivalent positions for administrative expenses and

\$240,050,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

#### CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), \$2,511,000 and 8 full-time equivalent positions (including \$2,179,000 and 8 full-time equivalent positions from local funds and \$332,000 from other funds).

#### STARPLEX FUND

For the Starplex Fund, \$8,717,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300; D.C. Code, sec. 2-321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

#### D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, \$112,419,000 of which \$59,735,000 shall be derived by transfer from the general fund and \$52,684,000 shall be derived from other funds.

#### D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1-711), \$16,667,000 and 13 full-time equivalent positions from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission

Reports.

and the actual use of such funds in time for each annual audited financial report.

#### CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88-622), \$3,052,000 and 50 full-time equivalent positions from other funds.

#### WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$47,996,000 of which \$5,400,000 shall be derived by transfer from the general fund.

#### DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104-8), \$3,400,000.

#### GENERAL PROVISIONS

##### Contracts.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

Reports.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.): *Provided*, That for the fiscal year ending September 30, 1997 the above shall apply except as modified by Public Law 104-8.

Applicability.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for Level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1996 shall be deemed to be the rate of pay payable for that position for September 30, 1996.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.



SEC. 121. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), based upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1997, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1997 revenue estimates as of the end of the first quarter of fiscal year 1997. These estimates shall be used in the budget request for the fiscal year ending September 30, 1998. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

Sequestration.

SEC. 126. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District

of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4-42; D.C. Code, secs. 1-299.1 to 1-299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council of the required reorganization plans.

SEC. 127. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1997 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

Records.  
Public inspection.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 128. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

#### PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 129. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

#### PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 130. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.

## COMPENSATION OF MEMBERS OF JUDICIAL NOMINATION COMMISSION

SEC. 131. (a) IN GENERAL.—Effective as if included in the enactment of the District of Columbia Appropriations Act, 1996, section 434(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows:

Effective date.

“(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.”.

(b) CONFORMING AMENDMENT.—Section 133(b) of the District of Columbia Appropriations Act, 1996 is hereby repealed, and the provision of law amended by such section is hereby restored as if such section had not been enacted into law.

Ante, p. 1321-92.

## MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 132. The Board of Education shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

## MONTHLY REPORTING REQUIREMENTS

## UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 133. The University of the District of Columbia shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

## ANNUAL REPORTING REQUIREMENTS

SEC. 134. (a) IN GENERAL.—The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1996, fiscal year 1997, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Colum-

bia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

#### ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 135. (a) No later than October 1, 1996, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1997, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

#### EDUCATIONAL BUDGET APPROVAL

SEC. 136. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

#### PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 137. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

## MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 138. The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-601.1 et seq.), is amended—

(1) in section 301 (D.C. Code, sec. 1-603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

“(13A) The term ‘nonschool-based personnel’ means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students.”; and

(B) by inserting after paragraph (15), the following new paragraph:

“(15A) The term ‘school administrators’ means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.”;

(2) in section 801A(b)(2) (D.C. Code, sec. 1-609.1(b)(2)(L))—

(A) by striking “(L) reduction-in-force” and inserting “(L)(i) reduction-in-force”; and

(B) by inserting after subparagraph (L)(i), the following new clause:

“(ii) notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.”; and

(3) in section 2402 (D.C. Code, sec. 1-625.2), by adding at the end the following new subsection:

“(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.”.

SEC. 139. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

## MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 140. (a) Section 2401 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-625.1 et seq.) is amended by amending the third sentence to read as follows: “A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency’s mission or a division or major subdivision of an agency.”.

(b) The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-601.1 et seq.), as amended by section 149 of the District of Columbia Appropriations Act,

1996 (Public Law 104-134), is amended by adding at the end *Ante*, p. 1321-97. the following new section:

**"SEC. 2407. ABOLISHMENT OF POSITIONS FOR FISCAL YEAR 1997.**

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1997, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1997, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the United States Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation. Notice.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section— Severance pay.

"(1) four years for an employee who qualified for veterans preference under this Act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

Listing.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1997, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

Termination  
notice.

"(l) A personnel authority shall cause a 30-day termination notice to be served, not later than September 1, 1997, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section."

#### CEILING ON EXPENSES AND DEFICIT

#### SEC. 141. (a) CEILING ON TOTAL OPERATING EXPENSES AND DEFICIT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1997 under the caption "DIVISION OF EXPENSES" shall not exceed the lesser of—

(A) the sum of the total revenues of the District of Columbia for such fiscal year and \$74,000,000; or

(B) \$5,108,913,000 (of which \$134,528,000 shall be from intra-District funds).

(2) ENFORCEMENT.—The Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1997.

#### (b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104-8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of



such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104-8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

#### CHIEF FINANCIAL OFFICER POWERS DURING CONTROL PERIODS

SEC. 142. Notwithstanding any other provision of law, during any control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 the following shall apply:

(a) The heads and all personnel of the following offices, together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of independent agencies but not including personnel of the legislative and judicial branches of the District government), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

- The Office of the Treasurer.
- The Controller of the District of Columbia.
- The Office of the Budget.
- The Office of Financial Information Services.
- The Department of Finance and Revenue.

The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104-8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

(b) The Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; Public Law 93-198), as amended, for each fiscal year occurring during a control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of the District of Columbia Self-Government and Governmental

Reorganization Act, Public Law 93-198, approved December 24, 1973, without revision but subject to recommendations. Notwithstanding any other provisions of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.

#### POLICE AND FIRE FIGHTER DISABILITY RETIREMENTS

SEC. 143. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1997 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979; D.C. Code, secs. 1-722(d) and 1-724(d)).

Effective date.  
Reports.

(c) This section shall not go into effect until 15 days after the Mayor transmits the actuarial report required by section 142(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979) to the District of Columbia Retirement Board, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

SEC. 144. (a) Section 451(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 803; D.C. Code, sec. 1-1130(c)(3)), is amended by striking the word "section" and inserting the word "subsection" in its place.

#### DISTRICT OF COLUMBIA SCHOOL REFORM

*Ante*, p. 1321-  
119.

SEC. 145. Section 2204(c)(2) of the District of Columbia School Reform Act of 1995 (Public Law 104-134) is amended to read as follows:

"(2) TUITION, FEES, AND PAYMENTS.—

"(A) PROHIBITION.—A public charter school may not, with respect to any student other than a nonresident student, charge tuition, impose fees, or otherwise require payment for participation in any program, educational offering, or activity that—

"(i) enrolls students in any grade from kindergarten through grade 12; or

"(ii) is funded in whole or part through an annual local appropriation.

"(B) EXCEPTION.—A public charter school may impose fees or otherwise require payment, at rates established by the Board of Trustees of the school, for any program,

educational offering, or activity not described in clause (i) or (ii) of subparagraph (A), including adult education programs, or for field trips or similar activities.”.

SEC. 146. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 147. Notwithstanding any other law, the District of Columbia Housing Finance Agency, established by section 210 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111) shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992.

SEC. 148. Section 2561(b) of the District of Columbia School Reform Act of 1995 (Public Law 104-134) is amended to read as follows:

“(b) LIMITATION.—A waiver under subsection (a) shall not apply to requirements under 40 U.S.C. 267a-276a-7 and Executive Order 11246.”.

*Ante*, p. 1321-143.

#### ENERGY AND WATER SAVINGS AT DISTRICT OF COLUMBIA FACILITIES

SEC. 149. The Director of the District of Columbia Office of Energy shall, subject to the contract approval provisions of Public Law 104-8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to, utility demand-side management programs and energy savings performance contracts and

Contracts.

water conservation performance contracts: *Provided*, That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.

REDUCTION IN MINIMUM NUMBER OF MEMBERS OF THE BOARD OF  
TRUSTEES OF AMERICAN UNIVERSITY

SEC. 150. The first section of the Act entitled "An Act to incorporate the American University", approved February 24, 1893, (27 Stat. 476), is amended by striking "forty" and inserting "twenty-five".

WAIVER OF CONGRESSIONAL REVIEW FOR CERTAIN COUNCIL ACTS

Effective date.

SEC. 151. Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, each of the following District of Columbia acts shall take effect on the date of the enactment of this Act:

(1) The District of Columbia Real Property Tax Lien Assignment or Sale and Transfer Amendment Act of 1996 (D.C. Act 11-353).

(2) The Telecommunications Competition Act of 1996 (D.C. Act 11-300).

(3) The Mortgage Lenders and Brokers Act of 1996 (D.C. Act 11-309).

This Act may be cited as the District of Columbia Appropriations Act, 1997.

Approved September 9, 1996.

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LEGISLATIVE HISTORY—H.R. 3845:

HOUSE REPORTS: Nos. 104-689 (Comm. on Appropriations) and 104-740 (Comm. of Conference).

SENATE REPORTS: No. 104-328 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 22, considered and passed House.

July 25, considered and passed Senate, amended.

Aug. 1, House agreed to conference report.

Sept. 5, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 9, Presidential statement.

Public Law 104-195  
104th Congress

An Act

To amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, and for other purposes.

Sept. 16, 1996

[H.R. 3269]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. HOLD-HARMLESS AMOUNTS FOR PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.**

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

“(g) FORMER DISTRICTS.—

“(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year after fiscal year 1994 to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

“(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect for such fiscal year.

“(h) HOLD-HARMLESS AMOUNTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay under subsection (b) to a local educational agency that is otherwise eligible for a payment under this section—

“(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

“(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).

“(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

“(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

“(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

“(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.”.

#### **SEC. 2. APPLICATIONS FOR INCREASED PAYMENTS.**

South Dakota.

(a) PAYMENTS.—Notwithstanding any other provision of law—

(1) the Bonesteel-Fairfax School District Number 26-5, South Dakota, and the Wagner Community School District Number 11-4, South Dakota, shall be eligible to apply for payment for fiscal year 1994 under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994); and

(2) the Secretary of Education shall use a subgroup of 10 or more generally comparable local educational agencies for the purpose of calculating a payment described in paragraph (1) for a local educational agency described in such paragraph.

(b) APPLICATION.—In order to be eligible to receive a payment described in subsection (a), a school district described in such subsection shall apply for such payment within 30 days after the date of enactment of this Act.

(c) CONSTRUCTION.—Nothing in this section shall be construed to require a local educational agency that received a payment under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994) for fiscal year 1994 to return such payment or a portion of such payment to the Federal Government.

#### **SEC. 3. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN RESIDING ON MILITARY INSTALLATION HOUSING UNDERGOING RENOVATION.**

(a) IN GENERAL.—Section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by adding at the end the following new paragraph:

“(4) MILITARY INSTALLATION HOUSING UNDERGOING RENOVATION.—For purposes of computing the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that such children would have resided in housing on Federal

property in accordance with paragraph (1)(B) except that such housing was undergoing renovation on the date for which the Secretary determines the number of children under paragraph (1).”.

(b) **EFFECTIVE DATE.**—Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995.

20 USC 7703  
note.

**SEC. 4. COMPUTATION OF PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN IN STATES WITH ONLY ONE LOCAL EDUCATIONAL AGENCY.**

(a) **IN GENERAL.**—Section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) is amended by adding at the end the following new paragraph:

“(3) **STATES WITH ONLY ONE LOCAL EDUCATIONAL AGENCY.**—

“(A) **IN GENERAL.**—In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of paragraphs (1)(B), (1)(C), and (2) of this subsection, and subsection (e), consider each administrative school district in the State to be a separate local educational agency.

“(B) **COMPUTATION OF MAXIMUM AMOUNT OF BASIC SUPPORT PAYMENT AND THRESHOLD PAYMENT.**—In computing the maximum payment amount under paragraph (1)(C) and the learning opportunity threshold payment under paragraph (2)(B) for an administrative school district described in subparagraph (A)—

“(i) the Secretary shall first determine the maximum payment amount and the total current expenditures for the State as a whole; and

“(ii) the Secretary shall then—

“(I) proportionately allocate such maximum payment amount among the administrative school districts on the basis of the respective weighted student units of such districts; and

“(II) proportionately allocate such total current expenditures among the administrative school districts on the basis of the respective number of students in average daily attendance at such districts.”.

(b) **EFFECTIVE DATE.**—Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994.

20 USC 7703  
note.

**SEC. 5. DATA AND DETERMINATION OF AVAILABLE FUNDS.**

(a) **DATA.**—Paragraph (4) of section 8003(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)) is amended—

(1) in the heading, by striking “CURRENT YEAR”;

(2) by amending subparagraph (A) to read as follows:

“(A) shall use student, revenue, and tax data from the second fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this subsection;” and

(3) in subparagraph (B), by striking “such year” and inserting “the fiscal year for which the local educational agency is applying for assistance under this subsection”.

(b) DETERMINATION OF AVAILABLE FUNDS.—Paragraph (3) of section 8003(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)) is amended—

(1) in the matter preceding subclause (I) of subparagraph (A)(iii), by inserting “, except as provided in subparagraph (C),” after “but”; and

(2) by adding at the end the following new subparagraph:

“(C) DETERMINATION OF AVAILABLE FUNDS.—When determining the amount of funds available to the local educational agency for current expenditures for purposes of subparagraph (A)(iii) for a fiscal year, the Secretary shall include, with respect to the local educational agency’s opening cash balance for such fiscal year, the portion of such balance that is the greater of—

“(i) the amount that exceeds the maximum amount of funds for current expenditures that the local educational agency was allowed by State law to carry over from the prior fiscal year, if State restrictions on such amounts were applied uniformly to all local educational agencies in the State; or

“(ii) the amount that exceeds 30 percent of the local educational agency’s operating costs for the prior fiscal year.”.

20 USC 7703  
note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years after fiscal year 1996.

#### SEC. 6. PAYMENTS RELATING TO FEDERAL PROPERTY.

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) (as amended by section 1) is further amended by adding at the end thereof the following new subsection:

“(i) PRIORITY PAYMENTS.—Notwithstanding subsection (b)(1)(B), and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency that—

“(1) received a payment under this section for fiscal year 1996;

“(2) serves a school district that contains all or a portion of a United States military academy;

“(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

“(4) demonstrates to the satisfaction of the Secretary that such agency’s per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.”.

#### SEC. 7. TREATMENT OF IMPACT AID PAYMENTS.

(a) IN GENERAL.—The Secretary of Education shall treat any State as having met the requirements of section 5(d)(2)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for



fiscal year 1991 (as such section was in effect for such fiscal year), and as not having met those requirements for each of the fiscal years 1992, 1993, and 1994 (as such section was in effect for fiscal year 1992, 1993, and 1994, respectively), if—

(1) the State's program of State aid was not certified by the Secretary under section 5(d)(2)(C)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for any fiscal year prior to fiscal year 1991;

(2) the State submitted timely notice under that section of the State's intention to seek that certification for fiscal year 1991;

(3) the Secretary determined that the State did not meet the requirements of section 5(d)(2)(A) of such Act for fiscal year 1991; and

(4) the State made a payment to each local educational agency in the State (other than a local educational agency that received a payment under section 3(d)(2)(B) of such Act for fiscal year 1991) in an amount equal to the difference between the amount such agency received under such Act for fiscal year 1991 and the amount such agency would have received under such Act for fiscal year 1991 if payments under such Act had not been taken into consideration in awarding State aid to such agencies for fiscal year 1991.

(b) REPAYMENT NOT REQUIRED.—Notwithstanding any other provision of law, any local educational agency in a State that meets the requirements of paragraphs (1) through (4) of subsection (a) and that received funds under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal year 1991 (as such section was in effect for such fiscal year) shall not, by virtue of subsection (a), be required to repay those funds to the Secretary of Education.

**SEC. 8. SPECIAL RULE RELATING TO AVAILABILITY OF FUNDS FOR THE LOCAL EDUCATIONAL AGENCY SERVING THE NORTH HANOVER TOWNSHIP PUBLIC SCHOOLS, NEW JERSEY, UNDER PUBLIC LAW 874, 81ST CONGRESS.**

The Secretary of Education shall not consider any funds that the Secretary of Education determines the local educational agency serving the North Hanover Township Public Schools, New Jersey, has designated for a future liability under an early retirement incentive program as funds available to such local educational agency for purposes of determining the eligibility of such local educational agency for a payment for fiscal year 1994, or the amount of any such payment, under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress), as such section was in effect for such fiscal year.

**SEC. 9. CORRECTED LOCAL CONTRIBUTION RATE.**

(a) COMPUTATION.—The Secretary of Education shall compute a payment for a local educational agency under the Act of September 30, 1950 (Public Law 874, 81st Congress) for each of the fiscal years 1991 through 1994 (as such Act was in effect for each of those fiscal years, as the case may be) using a corrected local contribution rate based on generally comparable school districts, if—

(1) an incorrect local contribution rate was submitted to the Secretary of Education by the State in which such agency

is located, and the incorrect local contribution rate was verified as correct by the Secretary of Education; and

(2) the corrected local contribution rate is subject to review by the Secretary of Education.

(b) PAYMENT.—Using funds appropriated under the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1991 through 1994 that remain available for obligation (if any), the Secretary of Education shall make payments based on the computations described in subsection (a) to the local educational agency for such fiscal years.

#### SEC. 10. STATE EQUALIZATION PLANS.

Subparagraph (A) of section 8009(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7709(b)(2)) is amended by striking “more than” and all that follows through the period and inserting “more than 25 percent.”.

Approved September 16, 1996.

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#### LEGISLATIVE HISTORY—H.R. 3269 (S. 1509):

HOUSE REPORTS: No. 104-560 (Comm. on Economic and Educational Opportunities).

#### CONGRESSIONAL RECORD:

Vol. 141 (1995): Dec. 22, S. 1509 considered and passed Senate.

Vol. 142 (1996): May 7, H.R. 3269 considered and passed House.

Aug. 2, considered and passed Senate, amended.

Sept. 4, House concurred in Senate amendment.

Public Law 104-196  
104th Congress

An Act

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

Sept. 16, 1996

[H.R. 3517]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1997, for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, and for other purposes, namely:

Military  
Construction  
Appropriations  
Act, 1997.

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$565,688,000, to remain available until September 30, 2001: *Provided*, That of this amount, not to exceed \$50,538,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 103-110, \$2,028,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$707,094,000, to remain available until September 30, 2001: *Provided*, That of this amount, not to exceed \$49,927,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense

determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 102-380, \$9,000,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 103-110, \$2,300,000 is hereby rescinded.

#### MILITARY CONSTRUCTION, AIR FORCE

##### (INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$754,064,000, to remain available until September 30, 2001: *Provided*, That of this amount, not to exceed \$50,687,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 103-307, \$2,100,000 is hereby rescinded.

#### MILITARY CONSTRUCTION, DEFENSE-WIDE

##### (INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$763,922,000, to remain available until September 30, 2001: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$12,239,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Defense-wide" under Public Law 104-32, \$7,000,000 is hereby rescinded.

#### DEPARTMENT OF DEFENSE MILITARY UNACCOMPANIED HOUSING IMPROVEMENT FUND

##### (INCLUDING TRANSFER OF FUNDS)

For the Department of Defense Military Unaccompanied Housing Improvement Fund, \$5,000,000, to remain available until

expended: *Provided*, That subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Fund from amounts appropriated for the acquisition or construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be made available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided further*, That appropriations made available for the Fund in this Act shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans and loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military unaccompanied housing and ancillary supporting facilities.

#### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$78,086,000, to remain available until September 30, 2001.

#### MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$189,855,000, to remain available until September 30, 2001.

#### MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$55,543,000, to remain available until September 30, 2001.

#### MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$37,579,000, to remain available until September 30, 2001.

#### MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$52,805,000, to remain available until September 30, 2001.

## NORTH ATLANTIC TREATY ORGANIZATION

## SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction authorization Acts and section 2806 of title 10, United States Code, \$172,000,000, to remain available until expended.

## FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$158,503,000, to remain available until September 30, 2001; for Operation and Maintenance, and for debt payment, \$1,212,466,000; in all \$1,370,969,000.

## FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$499,886,000, to remain available until September 30, 2001; for Operation and Maintenance, and for debt payment, \$1,014,241,000; in all \$1,514,127,000.

## FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$317,507,000, to remain available until September 30, 2001; for Operation and Maintenance, and for debt payment, \$816,509,000; in all \$1,134,016,000.

## FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, \$4,371,000, to remain available until September 30, 2001; for Operation and Maintenance, \$30,963,000; in all \$35,334,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND  
(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense Family Housing Improvement Fund, \$25,000,000, to remain available until expended: *Provided*, That, subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided further*, That appropriations made available to the Fund in this Act shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), \$36,181,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$352,800,000, to remain available until expended: *Provided*, That not more than \$223,789,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$971,925,000, to remain available until expended: *Provided*, That not more than \$351,967,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510),

\$1,182,749,000, to remain available until expended: *Provided*, That not more than \$200,841,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

#### GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor: *Provided*, That the foregoing shall not apply in the case of contracts for environmental restoration at an installation that is being closed or realigned where payments are made from a Base Realignment and Closure Account.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than \$25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the



current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the appropriate Committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

10 USC 2860  
note.

## (TRANSFER OF FUNDS)

10 USC 2860  
note.

SEC. 118. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

Reports.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

## (TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

Notice.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

10 USC 10503  
note.

SEC. 123. The National Guard Bureau shall annually prepare a future years defense plan based on the requirement and priorities of the National Guard: *Provided*, That this plan shall be presented to the committees of Congress concurrent with the President's budget submission for each fiscal year.

SEC. 124. It is the sense of the Congress that the Secretary of the Army should name buildings numbered 5308 and 5309 at Redstone Arsenal, Alabama, as the Howell Heflin Complex.

## (TRANSFER OF FUNDS)

SEC. 125. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

This Act may be cited as the "Military Construction Appropriations Act, 1997".

Approved September 16, 1996.

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LEGISLATIVE HISTORY—H.R. 3517:

HOUSE REPORTS: Nos. 104-591 (Comm. on Appropriations) and 104-721 (Comm. of Conference).

SENATE REPORTS: No. 104-287 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

May 30, considered and passed House.

June 26, considered and passed Senate, amended.

Aug. 1, House agreed to conference report.

Sept. 5, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 16, Presidential statement.

Public Law 104-197  
104th Congress

An Act

Sept. 16, 1996  
[H.R. 3754]

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes.

Legislative  
Branch  
Appropriations  
Act, 1997.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes, namely:

Congressional  
Operations  
Appropriations  
Act, 1997.  
2 USC 60a note.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

EXPENSE ALLOWANCES

For expense allowances of the Vice President, \$10,000; the President Pro Tempore of the Senate, \$10,000; Majority Leader of the Senate, \$10,000; Minority Leader of the Senate, \$10,000; Majority Whip of the Senate, \$5,000; Minority Whip of the Senate, \$5,000; and Chairmen of the Majority and Minority Conference Committees, \$3,000 for each Chairman; in all, \$56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY  
LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, \$15,000 for each such Leader; in all, \$30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, \$74,615,000, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, \$1,513,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, \$325,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, \$2,195,000.

## OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, \$1,156,000.

## CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, \$996,000 for each such committee; in all, \$1,992,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY  
AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, \$384,000.

## POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, \$965,000 for each such committee, in all, \$1,930,000.

## OFFICE OF THE CHAPLAIN

For Office of the Chaplain, \$234,000.

## OFFICE OF THE SECRETARY

For Office of the Secretary, \$12,714,000.

## OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, \$34,037,000.

## OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, \$1,135,000.

## AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, \$17,000,000.

## OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, \$3,447,000.

## OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, \$936,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE,  
SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SEC-  
RETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, \$3,000; Sergeant at Arms and Doorkeeper of the Senate, \$3,000; Secretary for the Majority of the Senate, \$3,000; Secretary for the Minority of the Senate, \$3,000; in all, \$12,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, \$69,561,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON  
INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, \$305,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, \$1,511,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, \$65,931,000.

MISCELLANEOUS ITEMS

For miscellaneous items, \$6,791,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, \$208,000,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, \$4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, \$8,500; in all, \$13,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, \$10,000,000, to remain available until September 30, 1998.

ADMINISTRATIVE PROVISIONS

SECTION 1. Section 195(a) of chapter IX of title I of the Supplemental Appropriations Act, 1985 (Public Law 99-88; 2 U.S.C. 61g-7(a)) is amended by striking the period at the end and inserting

“or with respect to the administration of the affairs of the committee.”

SEC. 2. Section 105(d)(1) of chapter VI of title I of the Second Supplemental Appropriations Act, 1978 (Public Law 95-355; 2 U.S.C. 43d(d)(1)) is amended by striking “and telephone services” and inserting “, telephone services, and stationery”.

SEC. 3. Section 3(f)(1) under the heading “ADMINISTRATIVE PROVISIONS” in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59(e)(1)) is amended in the second sentence by striking “one year” and inserting “3 years”.

SEC. 4. (a) Section 5 under the heading “ADMINISTRATIVE PROVISIONS” in the appropriation for the Senate in the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 58a note) is amended—

(1) in subsection (a), by striking “by the Sergeant at Arms and Doorkeeper of the Senate”; and

(2) by striking subsection (b) and inserting the following:

“(b) As used in subsection (a), the term ‘user’ means a Senator, an Officer of the Senate, and any office, committee, or other entity the funds of which are disbursed by the Secretary of the Senate.”.

(b) The amendments made by subsection (a) shall take effect on October 1, 1996, and shall apply to all payments made on or after such date for local and long distance telecommunications service.

Effective date.  
Applicability.  
2 USC 58a note.

SEC. 5. (a) The Sergeant at Arms and Doorkeeper of the Senate may directly, or through the General Services Administration, transfer title to excess or surplus educationally useful equipment to a public school. Any such transfer shall be completed at the lowest possible cost to the public school and the Senate.

Public schools.  
Computers.  
2 USC 117b note.

(b) The Committee on Rules and Administration of the Senate shall prescribe regulations to carry out the provisions of this section.

Regulations.

(c) Receipts from reimbursements for the costs of transfer of excess or surplus educationally useful equipment under this section, shall be deposited in the United States Treasury for credit to the account for the “Sergeant at Arms and Doorkeeper of the Senate” within the contingent fund of the Senate.

(d) For the purposes of this section:

(1) The term “public school” means a public elementary or secondary school as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) The term “educationally useful equipment” means computers and related peripheral tools, including printers, modems, routers, servers, computer keyboards, scanners, and other telecommunications and research equipment, that are appropriate for use in public school education.

(e) This section shall take effect beginning with fiscal year 1997 and shall be effective each fiscal year thereafter.

Effective date.

SEC. 6. (a) Notwithstanding section 1345 of title 31, United States Code, the Secretary of the Senate may reimburse any individual employed by the Senate day care center for the cost of training classes and conferences in connection with the provision of child care services and for travel, transportation, and subsistence expenses incurred in connection with the training classes and conferences.

40 USC 214e.

(b) The Senate day care center shall certify and provide appropriate documentation to the Secretary of the Senate with respect

Certification.

to any reimbursement under this section. Reimbursements under this section shall be made from the appropriations account "MISCELLANEOUS ITEMS" within the contingent fund of the Senate on vouchers approved by the Secretary of the Senate.

Regulations.

(c) Reimbursements under this section shall be subject to the regulations and limitations prescribed by the Committee on Rules and Administration of the Senate for travel and related expenses for which payment is authorized to be made from the contingent fund of the Senate.

Effective date.

(d) This section shall be effective on and after October 1, 1996.

SEC. 7. Notwithstanding any other provision of law, any funds received during fiscal year 1996 by the Sergeant at Arms and Doorkeeper of the Senate in settlement of a contract claim or dispute, but not to exceed \$1,450,000, shall be deposited into the appropriation account for fiscal year 1997 for the Sergeant at Arms and Doorkeeper of the Senate within the contingent fund of the Senate and shall be available in a like manner and for the same purposes as are the other funds in that account.

2 USC 123e.

SEC. 8. (a) The Secretary of the Senate, with the oversight and approval of the Committee on Rules and Administration of the Senate, shall oversee the development and implementation of a comprehensive Senate legislative information system.

(b) In carrying out this section, the Secretary of the Senate shall consult and work with officers and employees of the House of Representatives. Legislative branch agencies and departments and agencies of the executive branch shall provide cooperation, consultation, and assistance as requested by the Secretary of the Senate to carry out this section.

(c) Any funds that were appropriated under the heading "Secretary of the Senate" for expenses of the Office of the Secretary of the Senate by the Legislative Branch Appropriations Act, 1995, to remain available until September 30, 1998, and that the Secretary determines are not needed for development of a financial management system for the Senate may, with the approval of the Committee on Appropriations of the Senate, be used to carry out the provisions of this section, and such funds shall be available through September 30, 2000.

(d) The Committee on Rules and Administration of the Senate may prescribe such regulations as may be necessary to carry out the provisions of this section.

Effective date.

(e) This section shall be effective for fiscal years beginning on or after October 1, 1996.

2 USC 60p.

#### SEC. 9. PAYMENT FOR UNACCRUED LEAVE.—

(a) IN GENERAL.—The Financial Clerk of the Senate is authorized to accept from an individual whose pay is disbursed by the Secretary of Senate a payment representing pay for any period of unaccrued annual leave used by that individual, as certified by the head of the employing office of the individual making the payment.

(b) WITHHOLDING.—The Financial Clerk of the Senate is authorized to withhold the amount referred to in subsection (a) from any amount which is disbursed by the Secretary of the Senate and which is due to or on behalf of the individual described in subsection (a).



(c) DEPOSIT.—Any payment accepted under this section shall be deposited in the general fund of the Treasury as miscellaneous receipts.

(d) DEFINITION.—As used in this section, the term “head of the employing office” means any person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an individual whose pay is disbursed by the Secretary of the Senate.

(e) APPLICABILITY.—This section shall apply to fiscal year 1996 and each fiscal year thereafter.

## HOUSE OF REPRESENTATIVES

### SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, \$683,831,000, as follows:

#### HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, \$11,592,000, including: Office of the Speaker, \$1,535,000, including \$25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, \$1,526,000, including \$10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, \$1,534,000, including \$10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, \$957,000, including \$5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, \$949,000, including \$5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, \$376,000; Republican Steering Committee, \$664,000; Republican Conference, \$1,130,000; Democratic Steering and Policy Committee, \$1,191,000; Democratic Caucus, \$603,000; and nine minority employees, \$1,127,000.

#### MEMBERS' REPRESENTATIONAL ALLOWANCES

INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS,  
AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, \$363,313,000.

#### COMMITTEE EMPLOYEES

#### STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, \$80,222,000.

#### COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, \$17,580,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed.

## SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, \$86,259,000, including: for salaries and expenses of the Office of the Clerk, including not more than \$3,500, of which not more than \$2,500 is for the Family Room, for official representation and reception expenses, \$15,074,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than \$750 for official representation and reception expenses, \$3,638,000; for salaries and expenses of the Office of the Chief Administrative Officer, \$55,209,000, including salaries, expenses and temporary personal services of House Information Resources, \$22,577,000, of which \$16,577,000 is provided herein: *Provided*, That House Information Resources is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such reimbursement shall be deposited in the Treasury for credit to this account; for salaries and expenses of the Office of the Inspector General, \$3,954,000; Office of the Chaplain, \$126,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and \$2,000 for preparing the Digest of Rules, \$1,038,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, \$1,767,000; for salaries and expenses of the Office of the Legislative Counsel of the House, \$4,687,000; and other authorized employees, \$768,000.

## ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, \$124,865,000, including: supplies, materials, administrative costs and Federal tort claims, \$2,374,000; official mail for committees, leadership offices, and administrative offices of the House, \$1,000,000; reemployed annuitants reimbursement, \$71,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, \$120,779,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, \$641,000.

## CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

## ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Section 107A of the Legislative Branch Appropriations Act, 1996 (109 Stat. 522) is amended—

(1) by striking out “For fiscal year 1996, subject” and inserting in lieu thereof “(a) Subject”;

(2) by striking out “of the total amount” and all that follows through “cost of inventory” and inserting in lieu thereof

40 USC 174k  
note.

the following: “the amounts deposited in the account specified in subsection (b) from vending operations of the House of Representatives Restaurant System shall be available to pay the cost of goods sold”; and

(3) by adding at the end the following new subsection:

“(b) The account referred to in subsection (a) is the special deposit account established for the House of Representatives Restaurant by section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (40 U.S.C. 174k note).”

(b) The amendments made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996.

SEC .102. (a) Section 3210(a)(6)(A) of title 39, United States Code, is amended—

(1) in clause (i), by inserting “(or, in the case of a Member of the House, fewer than 90 days)” after “60 days”; and

(2) in clause (ii), by striking out “60 days” and inserting in lieu thereof “90 days”.

(b) The amendments made by subsection (a) shall take effect on October 1, 1996, and shall apply with respect to any mailing postmarked on or after that date.

Applicability.  
40 USC 174k  
note.

Effective date.  
Applicability.  
39 USC 3210  
note.

## JOINT ITEMS

For Joint Committees, as follows:

### JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1997

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1997, in accordance with such program as may be adopted by the joint committee authorized by Senate Concurrent Resolution 47, One Hundred Fourth Congress, agreed to March 20, 1996, and Senate Concurrent Resolution 48, One Hundred Fourth Congress, agreed to March 20, 1996, \$950,000 to be disbursed by the Secretary of the Senate and to remain available until September 30, 1997. Such funds shall be available for payment, on a direct or reimbursable basis, whether incurred on, before, or after, October 1, 1996: *Provided*, That the compensation of any employee of the Committee on Rules and Administration of the Senate who has been designated to perform service for the Joint Congressional Committee on Inaugural Ceremonies shall continue to be paid by the Committee on Rules and Administration, but the account from which such staff member is paid may be reimbursed for the services of the staff member (including agency contributions when appropriate) out of funds made available under this heading.

### JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, \$2,750,000, to be disbursed by the Secretary of the Senate.

### JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, \$777,000, to be disbursed by the Secretary of the Senate.

## JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, \$5,470,000, to be disbursed by the Chief Administrative Officer of the House.

For other joint items, as follows:

## OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of \$1,500 per month to the Attending Physician; (2) an allowance of \$500 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of \$500 per month to one assistant and \$400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (4) \$867,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, \$1,225,000, to be disbursed by the Chief Administrative Officer of the House.

## CAPITOL POLICE BOARD

## CAPITOL POLICE

## SALARIES

For the Capitol Police Board for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, clothing allowance of not more than \$600 each for members required to wear civilian attire, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, \$69,356,000, of which \$33,437,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Chief Administrative Officer of the House, and \$35,919,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

## GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than \$2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement

Training Center, and \$85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, \$2,782,000, to be disbursed by the Chief Administrative Officer of the House of Representatives: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1997 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

#### ADMINISTRATIVE PROVISION

SEC. 103. Amounts appropriated for fiscal year 1997 for the Capitol Police Board for the Capitol Police may be transferred between the headings "SALARIES" and "GENERAL EXPENSES" upon the approval of—

- (1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms of the House of Representatives under the heading "SALARIES";
- (2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms and Doorkeeper of the Senate under the heading "SALARIES"; and
- (3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of other transfers.

#### CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, \$1,991,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than forty individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

#### STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the One Hundred Fourth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, \$30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

#### OFFICE OF COMPLIANCE

##### SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), \$2,609,000.

## CONGRESSIONAL BUDGET OFFICE

## SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not more than \$2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, \$24,532,000: *Provided*, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

## ADMINISTRATIVE PROVISIONS

2 USC 605.

SEC. 104. (a) Any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease to the Congress subject to section 903 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 111b).

Applicability.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996.

Personal  
property.  
2 USC 606.

SEC. 105. (a) The Director of the Congressional Budget Office shall have the authority, within the limits of available appropriations, to dispose of surplus or obsolete personal property by inter-agency transfer, donation, or discarding.

Applicability.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996.

Compensation.  
2 USC 607.

SEC. 106. (a) The Director of the Congressional Budget Office shall have the authority to make lump-sum payments to separated employees of the Congressional Budget Office for unused annual leave.

Applicability.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996.

## ARCHITECT OF THE CAPITOL

## OFFICE OF THE ARCHITECT OF THE CAPITOL

## SALARIES

For the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law, \$8,454,000.

## TRAVEL

40 USC 166a.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of \$20,000.

## CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, \$100,000.

## CAPITOL BUILDINGS AND GROUNDS

## CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; including not more than \$1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; and attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, \$23,255,000, of which \$2,950,000 shall remain available until expended.

## CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, \$5,020,000, of which \$25,000 shall remain available until expended.

## SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, \$39,640,000, of which \$3,200,000 shall remain available until expended.

## HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, \$32,556,000, of which \$4,825,000 shall remain available until expended.

## CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, \$30,749,000: *Provided*, That not more than \$4,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1997.

## LIBRARY OF CONGRESS

## CONGRESSIONAL RESEARCH SERVICE

## SALARIES AND EXPENSES

2 USC 166 note.

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, \$62,641,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further*, That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

## GOVERNMENT PRINTING OFFICE

## CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, \$81,669,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1997".

## TITLE II—OTHER AGENCIES

## BOTANIC GARDEN

## SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, \$2,902,000.



## LIBRARY OF CONGRESS

## SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, \$216,007,000, of which not more than \$7,869,000 shall be derived from collections credited to this appropriation during fiscal year 1997, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150): *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the \$7,869,000: *Provided further*, That of the total amount appropriated, \$8,458,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including \$40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, \$928,800 shall be for the operation and maintenance of the American Folklife Center in the Library.

## COPYRIGHT OFFICE

## SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, \$33,402,000, of which not more than \$17,340,000 shall be derived from collections credited to this appropriation during fiscal year 1997 under 17 U.S.C. 708(d), and not more than \$4,929,000 shall be derived from collections during fiscal year 1997 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than \$22,269,000: *Provided further*, That not more than \$100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than \$2,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute.

## BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

## SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), \$44,964,000, of which \$11,694,000 shall remain available until expended.

## FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, \$4,882,000.

## ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount of not more than \$194,290, of which \$58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term “manager or supervisor” means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Of the amounts appropriated to the Library of Congress in this Act, not more than \$5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 205. Of the amount appropriated to the Library of Congress in this Act, not more than \$12,000 may be expended, on the certification of the Librarian of Congress, in connection with

official representation and reception expenses for the Overseas Field Offices.

SEC. 206. (a) For fiscal year 1997, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed \$108,275,000.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

SEC. 207. (a)(1) Subject to subsection (b), for fiscal year 1997, the obligational authority of the Library of Congress for the activities described in paragraph (2) may not exceed \$2,000,000.

(2) The activities referred to in paragraph (1) are non-expenditure transfer activities in support of parliamentary development that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(b) The obligational authority under subsection (a)—

(1) shall be available only with respect to Russia, Ukraine, Albania, Slovakia, and Romania; and

(2) shall expire on December 31, 1996.

SEC. 208. From and after October 1, 1996, the Disbursing Officer of the Library of Congress is authorized to disburse funds appropriated for the Office of Compliance, and the Library of Congress shall provide financial management support to the Office of Compliance as may be required and mutually agreed to by the Librarian of Congress and the Executive Director of the Office of Compliance. The Library of Congress is further authorized to compute and disburse the basic pay of all personnel of the Office of Compliance pursuant to the provisions of section 5504 of title 5.

All vouchers certified for payment by duly authorized certifying officers of the Library of Congress shall be supported with a certification by an officer or employee of the Office of Compliance duly authorized in writing by the Executive Director of the Office of Compliance to certify payments from appropriations of the Office of Compliance. The Office of Compliance certifying officers shall (1) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting paper and the legality of the proposed payment under the appropriation or fund involved, (2) be held responsible and accountable for the correctness of the computations of certifications made, and (3) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by them, as well as for any payment prohibited by law which did not represent a legal obligation under the appropriation or fund involved: *Provided*, That the Comptroller General of the United States may, at his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds (1) that the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained the actual facts, or (2) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment: *Provided further*, That the Comptroller General shall relieve

Foreign  
countries.

Expiration date.

Effective date.

2 USC 142l.

Certification.

such certifying officer or employee of liability for an overpayment for transportation services made to any common carrier covered by section 3726 of title 31, whenever he finds that the overpayment occurred solely because the administrative examination made prior to payment of the transportation bill did not include a verification of transportation rates, freight classifications, or land grant deductions.

The Disbursing Officer of the Library of Congress shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate, the responsibility for which is imposed upon a certifying officer or employee of the Office of Compliance.

SEC. 209. Section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended to read as follows:

**“SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to the Center to carry out this Act such sums as may be necessary for each of the fiscal years 1997 and 1998.”

**ARCHITECT OF THE CAPITOL**

**LIBRARY BUILDINGS AND GROUNDS**

**STRUCTURAL AND MECHANICAL CARE**

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, \$9,753,000, of which \$1,310,000 shall remain available until expended.

**GOVERNMENT PRINTING OFFICE**

**OFFICE OF SUPERINTENDENT OF DOCUMENTS**

**SALARIES AND EXPENSES**

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, \$29,077,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed \$150,000: *Provided further*, That amounts of not more than \$2,000,000, from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for 1995 and 1996 to depository and other designated libraries.

**GOVERNMENT PRINTING OFFICE REVOLVING FUND**

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolv-

ing fund: *Provided*, That not more than \$2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,600 workyears by the end of fiscal year 1997: *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15: *Provided further*, That expenses for attendance at meetings shall not exceed \$75,000.

#### GENERAL ACCOUNTING OFFICE

##### SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than \$7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries; \$332,520,000: *Provided*, That not more than \$100,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1997: *Provided further*, That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended, and not more than \$5,805,000 of such funds shall be available for use in fiscal year 1997: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further*, That this appro-

Regulations.

31 USC 9105  
note.

priation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

### TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Oversight and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 1997 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

Contracts.  
Public  
information.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

Notice.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable,

shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 306. During fiscal year 1997 and fiscal years thereafter, amounts appropriated to the Architect of the Capitol (including amounts relating to the Botanic Garden) may be transferred among accounts available to the Architect of the Capitol upon the approval of—

40 USC 166h.

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation for Capitol buildings and grounds under the heading "HOUSE OFFICE BUILDINGS";

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation for Capitol buildings and grounds under the heading "SENATE OFFICE BUILDINGS"; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of amounts transferred from any other appropriation.

SEC. 307. (a) Upon approval of the Committee on Appropriations of the House of Representatives, and in accordance with conditions determined by the Committee on House Oversight, positions in connection with House public address sound system activities and related funding shall be transferred from the appropriation for the Architect of the Capitol for Capitol buildings and grounds under the heading "CAPITOL BUILDINGS" to the appropriation for salaries and expenses of the House of Representatives for the Office of the Clerk under the heading "SALARIES, OFFICERS AND EMPLOYEES".

40 USC 175 note.

(b) For purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred under subsection (a) shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a) through (e) and (o) of such section.

Annuities.

(c) In the case of days of annual leave to the credit of any such employee as of the date such employee is transferred under subsection (a), the Architect of the Capitol is authorized to make a lump sum payment to each such employee for that annual leave. No such payment shall be considered a payment or compensation within the meaning of any law relating to dual compensation.

SEC. 308. (a) Effective October 1, 1996, the responsibility for maintenance of security systems for the Capitol buildings and grounds is transferred from the Architect of the Capitol to the Capitol Police Board. Such maintenance shall be carried out under the direction of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate. On and after October 1, 1996, any alteration to a structural, mechanical, or architectural feature of the Capitol

Effective dates.  
Government  
organization.  
40 USC 212a-4a.

buildings and grounds that is required for security system maintenance under the preceding sentence may be carried out only with the approval of the Architect of the Capitol.

Government  
organization.

(b)(1) Effective October 1, 1996, all positions specified in paragraph (2) and each individual holding any such position (on a permanent basis) immediately before that date, as identified by the Architect of the Capitol, shall be transferred to the Capitol Police.

(2) The positions referred to in paragraph (1) are those positions which, immediately before October 1, 1996, are—

(A) under the Architect of the Capitol;

(B) within the Electronics Engineering Division of the Office of the Architect of the Capitol; and

(C) related to the maintenance of security systems for the Capitol buildings and grounds.

(3) All annual leave and sick leave standing to the credit of an individual immediately before such individual is transferred under paragraph (1) shall be credited to such individual, without adjustment, in the new position of the individual.

SEC. 309. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of Public Law 104-1 to pay awards and settlements as authorized under such subsection.

SEC. 310. Any amount appropriated in this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 1997. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

Mail.  
Notice.  
2 USC 59h.

SEC. 311. (a) Each mass mailing sent by a Member of the House of Representatives shall bear in a prominent place on its face, or on the envelope or outside cover or wrapper in which the mail matter is sent, the following notice: "**THIS MAILING WAS PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE.**", or a notice to the same effect in words which may be prescribed under subsection (c). The notice shall be printed in a type size not smaller than 7-point.

Reports.

(b)(1) There shall be published in the itemized report of disbursements of the House of Representatives as required by law, a summary tabulation setting forth, for the office of each Member of the House of Representatives, the total number of pieces of mass mail mailed during the period involved and the total cost of those mass mailings.

(2) Each such tabulation shall also include—

(A) the total cost (as referred to in paragraph (1)) divided by the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the Congressional district from which the Member was elected (as such addresses are described in section 3210(d)(7)(B) of title 39, United States Code); and

(B) the total number of pieces of mass mail (as referred to in paragraph (1)) divided by the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the Congressional district from which the Member was elected (as such addresses are described in section 3210(d)(7)(B) of title 39, United States Code).



(c) The Committee on House Oversight shall prescribe such rules and regulations and shall take such other action as the Committee considers necessary and proper for Members to conform to the provisions of this subsection and applicable rules and regulations.

Rules and  
regulations.

(d) For purposes of this section—

(1) the term “Member of the House of Representatives” means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term “mass mailing” has the meaning given such term by section 3210(a)(6)(E) of title 39, United States Code.

(e) This section shall apply with respect to sessions of Congress beginning after the date of the enactment of this Act.

Applicability.

SEC. 312. (a) Section 203(a)(3) of Public Law 104-1 (2 U.S.C. 1313(a)(3)) is amended by inserting “and in subsection (c)(4)” after “(c)(3)”

(b) Section 203(c) of Public Law 104-1 (2 U.S.C. 1313(c)) is amended by adding at the end the following paragraph:

“(4) LAW ENFORCEMENT.—Law enforcement personnel of the Capitol Police who are subject to the exemption under section 7(k) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(k)) may elect to receive compensatory time off in lieu of overtime compensation for hours worked in excess of the maximum for their work period.”

SEC. 313. Section 316 of Public Law 101-302 is amended in the first sentence of subsection (a) by striking “1996” and inserting “1997”.

40 USC 188b-6.

SEC. 314. (a) Upon enactment into law of this Act, there shall be established a program for providing the widest possible exchange of information among legislative branch agencies with the long-range goal of improving information technology planning and evaluation. The Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate are requested to determine the structure and operation of this program and to provide appropriate oversight. All of the appropriate offices and agencies of the legislative branch as defined below shall participate in this program for information exchange, and shall report annually on the extent and nature of their participation in their budget submissions to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

Establishment.  
Science and  
technology.  
Tele-  
communications.  
2 USC 181.

(b) As used in this section—

(1) the term “offices and agencies of the legislative branch” means, the office of the Clerk of the House, the office of the Secretary of the Senate, the office of the Architect of the Capitol, the General Accounting Office, the Government Printing Office, the Library of Congress, the Congressional Research Service, the Congressional Budget Office, the Chief Administrative Officer of the House of Representatives, and the Sergeant at Arms of the Senate; and

(2) the term “technology” refers to any form of computer hardware and software; computer-based systems, services, and support for the creation, processing, exchange, and delivery of information; and telecommunications systems, and the associated hardware and software, that provide for voice, data, or image communication.

Reports.

PROHIBITIONS AGAINST POLITICAL RECOMMENDATIONS RELATING TO  
FEDERAL EMPLOYMENT

SEC. 315. (a) IN GENERAL.—Section 3303 of title 5, United States Code, is amended to read as follows:

**“§ 3303. Competitive service; recommendations of Senators or Representatives**

“An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3303 to read as follows:

“3303. Competitive service; recommendations of Senators or Representatives.”.

(2) Section 2302(b)(2) of title 5, United States Code, is amended to read as follows:

“(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

“(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

“(B) an evaluation of the character, loyalty, or suitability of such individual;”.

5 USC 2302 note.

(c) EFFECTIVE DATE.—This section shall take effect 30 days after the date of the enactment of this Act.

SEC. 316. Limitation on Exclusive Copyrights for Literary Works in Specialized Format for the Blind and Disabled.—

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding after section 120 the following new section:

**“§ 121. Limitations on exclusive rights: reproduction for blind or other people with disabilities**

“(a) Notwithstanding the provisions of sections 106 and 710, it is not an infringement of copyright for an authorized entity to reproduce or to distribute copies or phonorecords of a previously published, nondramatic literary work if such copies or phonorecords are reproduced or distributed in specialized formats exclusively for use by blind or other persons with disabilities.

“(b)(1) Copies or phonorecords to which this section applies shall—

“(A) not be reproduced or distributed in a format other than a specialized format exclusively for use by blind or other persons with disabilities;

Notice.

“(B) bear a notice that any further reproduction or distribution in a format other than a specialized format is an infringement; and

Notice.

“(C) include a copyright notice identifying the copyright owner and the date of the original publication.

“(2) The provisions of this subsection shall not apply to standardized, secure, or norm-referenced tests and related testing material, or to computer programs, except the portions thereof that are in conventional human language (including descriptions

of pictorial works) and displayed to users in the ordinary course of using the computer programs.

“(c) For purposes of this section, the term—

“(1) ‘authorized entity’ means a nonprofit organization or a governmental agency that has a primary mission to provide specialized services relating to training, education, or adaptive reading or information access needs of blind or other persons with disabilities;

“(2) ‘blind or other persons with disabilities’ means individuals who are eligible or who may qualify in accordance with the Act entitled “An Act to provide books for the adult blind”, approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats; and

“(3) ‘specialized formats’ means braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding after the item relating to section 120 the following:

“121. Limitations on exclusive rights: reproduction for blind or other people with disabilities.”.

SEC. 317. For payment to Jo Ann Emerson, widow of Bill Emerson, late a Representative from the State of Missouri, \$133,600.

Jo Ann Emerson.

This Act may be cited as the “Legislative Branch Appropriations Act, 1997”.

Approved September 16, 1996.

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#### LEGISLATIVE HISTORY—H.R. 3754:

HOUSE REPORTS: Nos. 104-657 (Comm. on Appropriations) and 104-733 (Comm. of Conference).

SENATE REPORTS: No. 104-323 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 10, considered and passed House.

July 29, 30, considered and passed Senate, amended.

Aug. 1, House agreed to conference report.

Sept. 3, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 16, Presidential statement.

Public Law 104-198  
104th Congress

An Act

Sept. 18, 1996  
[H.R. 740]

To confer jurisdiction on the United States Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

New Mexico.

**SECTION 1. JURISDICTION.**

Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052), or any other law which would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment on any claim by Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein the State of New Mexico or any adjoining State held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States. As a matter of adequate compensation, the United States Claims Court may award interest at a rate of five percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States. Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after the date of enactment of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

**SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.**

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act under any judgment of the Indian Claims Commission or any other authority with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

Approved September 18, 1996.

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**LEGISLATIVE HISTORY—H.R. 740:**

HOUSE REPORTS: No. 104-694 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 142 (1996):  
July 29, considered and passed House.  
Sept. 4, considered and passed Senate.

Public Law 104-199  
104th Congress

An Act

To define and protect the institution of marriage.

Sept. 21, 1996

[H.R. 3396]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Defense of  
Marriage Act.  
1 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Defense of Marriage Act”.

**SEC. 2. POWERS RESERVED TO THE STATES.**

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by adding after section 1738B the following:

**“§ 1738C. Certain acts, records, and proceedings and the effect thereof**

“No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738B the following new item:

“1738C. Certain acts, records, and proceedings and the effect thereof.”

**SEC. 3. DEFINITION OF MARRIAGE.**

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

**“§ 7. Definition of ‘marriage’ and ‘spouse’**

“In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by inserting after the item relating to section 6 the following new item:

“7. Definition of ‘marriage’ and ‘spouse’.”.

Approved September 21, 1996.

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LEGISLATIVE HISTORY—H.R. 3396:

HOUSE REPORTS: No. 104-664 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 11, 12, considered and passed House.

Sept. 10, considered and passed Senate.

Public Law 104-200  
104th Congress

An Act

To make technical corrections in the Federal Oil and Gas Royalty Management Act of 1982.

Sept. 22, 1996  
[H.R. 4018]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TECHNICAL CORRECTIONS.**

The Federal Oil and Gas Royalty Management Act of 1982 is amended as follows:

- (1) In section 3(25)(B) strike the word “provision” and insert in lieu thereof the word “provisions”. 30 USC 1702.
- (2) In the second sentence of section 115(l) insert the word “so” before the word “demonstrate”. *Ante*, p. 1705.
- (3) In the first sentence of section 111(i) insert the word “not” after the word “shall”. *Ante*, p. 1712.
- (4) In the first sentence of section 111(j) strike the word “rate” and insert in lieu thereof the word “date”. *Ante*, p. 1713.
- (5) In the third and fourth sentences of section 111(j) strike the word “owned” and insert in lieu thereof the word “owed”.
- (6) In the third sentence of section 111(k)(4) strike the word “dues” and insert in lieu thereof the word “due”. *Ante*, p. 1714.
- (7) In section 117(b)(1)(C) strike the word “it” and insert in lieu thereof the word “its”. *Ante*, p. 1715.

Approved September 22, 1996.

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**LEGISLATIVE HISTORY—H.R. 4018:**

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 4, considered and passed House.  
Sept. 9, considered and passed Senate.

Public Law 104-201  
104th Congress

An Act

Sept. 23, 1996

[H.R. 3230]

National Defense  
Authorization  
Act for Fiscal  
Year 1997.

To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 1997”.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) **DIVISIONS.**—This Act is organized into three divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees defined.

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- Sec. 1303. Strengthening certain sanctions against nuclear proliferation activities.
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- Sec. 1305. Report on military capabilities of People's Republic of China.
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**Subtitle B—Commission to Assess the Ballistic Missile Threat to the United States**

- Sec. 1321. Establishment of Commission.
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- Sec. 1604. Travel expenses and health care for civilian employees of the Department of Defense abroad.
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- Sec. 1606. Employment and salary practices applicable to Department of Defense overseas teachers.
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- Sec. 1609. Modification of authority for civilian employees of Department of Defense to participate voluntarily in reductions in force.
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- Sec. 1616. Pilot programs for defense employees converted to contractor employees due to privatization at closed military installations.

##### **Subtitle B—Department of Defense Intelligence Personnel Policy**

- Sec. 1631. Short title.
- Sec. 1632. Management of civilian intelligence personnel.
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- Sec. 1634. Other personnel management authorities.
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- Sec. 1714. Authority to pay for property management services.
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- Sec. 1716. Authority to pay limited relocation allowances to an employee who is performing an extended assignment.
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- Sec. 1801. Recognition and grant of Federal charter.
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- Sec. 1816. Definition of State.

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- Sec. 2001. Short title.

**TITLE XXI—ARMY**

- Sec. 2101. Authorized Army construction and land acquisition projects.
- Sec. 2102. Family housing.
- Sec. 2103. Improvements to military family housing units.
- Sec. 2104. Authorization of appropriations, Army.
- Sec. 2105. Land acquisition, National Ground Intelligence Center, Charlottesville, Virginia.

**TITLE XXII—NAVY**

- Sec. 2201. Authorized Navy construction and land acquisition projects.
- Sec. 2202. Family housing.
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- Sec. 2204. Authorization of appropriations, Navy.
- Sec. 2205. Beach replenishment, Naval Air Station, North Island, California.

**TITLE XXIII—AIR FORCE**

- Sec. 2301. Authorized Air Force construction and land acquisition projects.
- Sec. 2302. Family housing.
- Sec. 2303. Improvements to military family housing units.
- Sec. 2304. Authorization of appropriations, Air Force.
- Sec. 2305. Elimination of authority to carry out fiscal year 1995 project, Spangdahlem Air Force Base, Germany.

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- Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
- Sec. 2402. Military housing planning and design.
- Sec. 2403. Improvements to military family housing units.
- Sec. 2404. Military housing improvement program.
- Sec. 2405. Energy conservation projects.
- Sec. 2406. Authorization of appropriations, Defense Agencies.
- Sec. 2407. Reduction in amounts authorized to be appropriated for fiscal year 1996 Defense Agencies military construction, land acquisition, and military family housing functions.

**TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM**

- Sec. 2501. Authorized NATO construction and land acquisition projects.
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**TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES**

- Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

- Sec. 2602. Authorization and funding for construction and improvement of Naval Reserve Centers.  
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#### **TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS**

- Sec. 2701. Expiration of authorizations and amounts required to be specified by law.  
Sec. 2702. Extension of authorizations of certain fiscal year 1994 projects.  
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#### **TITLE XXVIII—GENERAL PROVISIONS**

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Sec. 2802. Redesignation of North Atlantic Treaty Organization Infrastructure program.  
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- Sec. 2811. Restoration of authority for certain intragovernment transfers under 1988 base closure law.  
Sec. 2812. Contracting for certain services at facilities remaining on closed installations.  
Sec. 2813. Authority to compensate owners of manufactured housing.  
Sec. 2814. Additional purpose for which adjustment and diversification assistance is authorized.  
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Sec. 2816. Plan for utilization, reutilization, or disposal of Mississippi Army Ammunition Plant.

##### **Subtitle C—Land Conveyances**

###### **PART I—ARMY CONVEYANCES**

- Sec. 2821. Transfer of lands, Arlington National Cemetery, Arlington, Virginia.  
Sec. 2822. Land transfer, Fort Sill, Oklahoma.  
Sec. 2823. Land conveyance, Army Reserve Center, Rushville, Indiana.  
Sec. 2824. Land conveyance, Army Reserve Center, Anderson, South Carolina.  
Sec. 2825. Land conveyance, Army Reserve Center, Montpelier, Vermont.  
Sec. 2826. Land conveyance, Crafts Brothers Reserve Training Center, Manchester, New Hampshire.  
Sec. 2827. Land conveyance, Pine Bluff Arsenal, Arkansas.  
Sec. 2828. Reaffirmation of land conveyances, Fort Sheridan, Illinois.

###### **PART II—NAVY CONVEYANCES**

- Sec. 2831. Land transfer, Potomac Annex, District of Columbia.  
Sec. 2832. Land exchange, St. Helena Annex, Norfolk Naval Shipyard, Virginia.  
Sec. 2833. Land conveyance, Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, Calverton, New York.  
Sec. 2834. Land conveyance, former naval reserve facility, Lewes, Delaware.  
Sec. 2835. Modification of land conveyance authority, Naval Reserve Center, Seattle, Washington.  
Sec. 2836. Release of condition on reconveyance of transferred land, Guam.  
Sec. 2837. Lease to facilitate construction of Reserve center, Naval Air Station, Meridian, Mississippi.

###### **PART III—AIR FORCE CONVEYANCES**

- Sec. 2841. Land conveyance, Radar Bomb Scoring Site, Belle Fourche, South Dakota.  
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###### **PART IV—OTHER CONVEYANCES**

- Sec. 2851. Land conveyance, Tatum Salt Dome Test Site, Mississippi.

- Sec. 2852. Land conveyance, William Langer Jewel Bearing Plant, Rolla, North Dakota.
- Sec. 2853. Land conveyance, Air Force Plant No. 85, Columbus, Ohio.
- Sec. 2854. Modification of boundaries of White Sands National Monument and White Sands Missile Range.

#### **Subtitle D—Other Matters**

- Sec. 2861. Authority to grant easements for rights-of-way.
- Sec. 2862. Authority to enter into cooperative agreements for the management of cultural resources on military installations.
- Sec. 2863. Demonstration project for installation and operation of electric power distribution system at Youngstown Air Reserve Station, Ohio.
- Sec. 2864. Renovation of the Pentagon reservation.
- Sec. 2865. Plan for repairs and stabilization of the historic district at the Forest Glen Annex of Walter Reed Medical Center, Maryland.
- Sec. 2866. Naming of range at Camp Shelby, Mississippi.
- Sec. 2867. Designation of Michael O'Callaghan military hospital.
- Sec. 2868. Naming of building at the Uniformed Services University of the Health Sciences.

### **TITLE XXIX—MILITARY LAND WITHDRAWALS**

#### **Subtitle A—Fort Carson-Pinon Canyon Military Lands Withdrawal**

- Sec. 2901. Short title.
- Sec. 2902. Withdrawal and reservation of lands at Fort Carson Military Reservation.
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- Sec. 2904. Maps and legal descriptions.
- Sec. 2905. Management of withdrawn lands.
- Sec. 2906. Management of withdrawn and acquired mineral resources.
- Sec. 2907. Hunting, fishing, and trapping.
- Sec. 2908. Termination of withdrawal and reservation.
- Sec. 2909. Determination of presence of contamination and effect of contamination.
- Sec. 2910. Delegation.
- Sec. 2911. Hold harmless.
- Sec. 2912. Amendment to Military Lands Withdrawal Act of 1986.
- Sec. 2913. Authorization of appropriations.

#### **Subtitle B—El Centro Naval Air Facility Ranges Withdrawal**

- Sec. 2921. Short title and definitions.
- Sec. 2922. Withdrawal and reservation of lands for El Centro.
- Sec. 2923. Maps and legal descriptions.
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- Sec. 2925. Duration of withdrawal and reservation.
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- Sec. 2927. Requirements for extension.
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### **DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

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- Sec. 3131. Stockpile stewardship program.
- Sec. 3132. Manufacturing infrastructure for nuclear weapons stockpile.
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- Sec. 3137. Prohibition on funding nuclear weapons activities with People's Republic of China.
- Sec. 3138. International cooperative stockpile stewardship programs.
- Sec. 3139. Temporary authority relating to transfers of defense environmental management funds.
- Sec. 3140. Management structure for nuclear weapons production facilities and nuclear weapons laboratories.
- Sec. 3141. Accelerated schedule for isolating high-level nuclear waste at the defense waste processing facility, Savannah River Site.
- Sec. 3142. Processing and treatment of high-level nuclear waste and spent nuclear fuel rods.
- Sec. 3143. Projects to accelerate closure activities at defense nuclear facilities.
- Sec. 3144. Payment of costs of operation and maintenance of infrastructure at Nevada Test Site.

#### **Subtitle D—Other Matters**

- Sec. 3151. Report on plutonium pit production and remanufacturing plans.
- Sec. 3152. Amendments relating to baseline environmental management reports.
- Sec. 3153. Requirement to develop future use plans for environmental management program.
- Sec. 3154. Report on Department of Energy liability at Department superfund sites.
- Sec. 3155. Requirement for annual five-year budget for the national security programs of the Department of Energy.
- Sec. 3156. Requirements for Department of Energy weapons activities budgets for fiscal years after fiscal year 1997.
- Sec. 3157. Repeal of requirement relating to accounting procedures for Department of Energy funds.
- Sec. 3158. Update of report on nuclear test readiness postures.
- Sec. 3159. Reports on critical difficulties at nuclear weapons laboratories and nuclear weapons production plants.
- Sec. 3160. Extension of applicability of notice-and-wait requirement regarding proposed cooperation agreements.
- Sec. 3161. Sense of Senate relating to redesignation of defense environmental restoration and waste management program.
- Sec. 3162. Commission on maintaining United States nuclear weapons expertise.
- Sec. 3163. Sense of Congress regarding reliability and safety of remaining nuclear forces.
- Sec. 3164. Study on worker protection at the Mound facility.
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- Sec. 3166. Fellowship program for development of skills critical to Department of Energy nuclear weapons complex.

#### **Subtitle E—Defense Nuclear Environmental Cleanup and Management**

- Sec. 3171. Purpose.
- Sec. 3172. Applicability.
- Sec. 3173. Site manager.
- Sec. 3174. Department of Energy orders.
- Sec. 3175. Deployment of technology for remediation of defense nuclear waste.
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- Sec. 3178. Definitions.
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#### **Subtitle F—Waste Isolation Pilot Plant Land Withdrawal Act Amendments**

- Sec. 3181. Short title.

- Sec. 3182. Definitions.
- Sec. 3183. Management plan.
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- Sec. 3185. Test phase activities.
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- Sec. 3187. Environmental Protection Agency disposal regulations.
- Sec. 3188. Compliance with environmental laws and regulations.
- Sec. 3189. Sense of Congress on commencement of emplacement of transuranic waste.
- Sec. 3190. Decommissioning of WIPP.
- Sec. 3191. Authorizations for economic assistance and miscellaneous payments.

#### **TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

- Sec. 3201. Authorization.

#### **TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

##### **Subtitle A—Authorization of Disposals and Use of Funds**

- Sec. 3301. Definitions.
- Sec. 3302. Authorized uses of stockpile funds.
- Sec. 3303. Disposal of certain materials in National Defense Stockpile.

##### **Subtitle B—Programmatic Change**

- Sec. 3311. Biennial report on stockpile requirements.
- Sec. 3312. Notification requirements.
- Sec. 3313. Importation of strategic and critical materials.

#### **TITLE XXXIV—NAVAL PETROLEUM RESERVES**

- Sec. 3401. Authorization of appropriations.
- Sec. 3402. Price requirement on sale of certain petroleum during fiscal year 1997.

#### **TITLE XXXV—PANAMA CANAL COMMISSION**

##### **Subtitle A—Authorization of Appropriations**

- Sec. 3501. Short title.
- Sec. 3502. Authorization of expenditures.
- Sec. 3503. Purchase of vehicles.
- Sec. 3504. Expenditures only in accordance with treaties.

##### **Subtitle B—Amendments to Panama Canal Act of 1979**

- Sec. 3521. Short title; references.
- Sec. 3522. Definitions and recommendation for legislation.
- Sec. 3523. Administrator.
- Sec. 3524. Deputy Administrator and Chief Engineer.
- Sec. 3525. Office of Ombudsman.
- Sec. 3526. Appointment and compensation; duties.
- Sec. 3527. Applicability of certain benefits.
- Sec. 3528. Travel and transportation.
- Sec. 3529. Clarification of definition of agency.
- Sec. 3530. Panama Canal Employment System; merit and other employment requirements.
- Sec. 3531. Employment standards.
- Sec. 3532. Repeal of obsolete provision regarding interim application of Canal Zone Merit System.
- Sec. 3533. Repeal of provision relating to recruitment and retention remuneration.
- Sec. 3534. Benefits based on basic pay.
- Sec. 3535. Vesting of general administrative authority of Commission.
- Sec. 3536. Applicability of certain laws.
- Sec. 3537. Repeal of provision relating to transferred or reemployed employees.
- Sec. 3538. Administration of special disability benefits.
- Sec. 3539. Panama Canal Revolving Fund.
- Sec. 3540. Printing.
- Sec. 3541. Accounting policies.
- Sec. 3542. Interagency services; reimbursements.
- Sec. 3543. Postal service.
- Sec. 3544. Investigation of accidents or injury giving rise to claim.
- Sec. 3545. Operations regulations.
- Sec. 3546. Miscellaneous repeals.
- Sec. 3547. Exemption from Metric Conversion Act of 1975.
- Sec. 3548. Conforming and clerical amendments.
- Sec. 3549. Repeal of Panama Canal Code.



**SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**

For purposes of this Act, the term “congressional defense committees” means—

- (1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and
- (2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

## **DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

### **TITLE I—PROCUREMENT**

#### **TITLE I—PROCUREMENT**

##### **Subtitle A—Authorization of Appropriations**

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Defense-wide activities.
- Sec. 105. Reserve components.
- Sec. 106. Defense Inspector General.
- Sec. 107. Chemical Demilitarization Program.
- Sec. 108. Defense health programs.

##### **Subtitle B—Army Programs**

- Sec. 111. Repeal of limitation on procurement of Armed Kiowa Warrior helicopters.
- Sec. 112. Multiyear procurement authority for Army programs.
- Sec. 113. Bradley TOW 2 Test Program sets.

##### **Subtitle C—Navy Programs**

- Sec. 121. Nuclear attack submarine programs.
- Sec. 122. Arleigh Burke class destroyer program.
- Sec. 123. EA-6B aircraft reactive jammer program.
- Sec. 124. T-39N trainer aircraft for the Navy.
- Sec. 125. Penguin missile program.

##### **Subtitle D—Air Force Programs**

- Sec. 131. Repeal of limitation on procurement of F-15E aircraft.
- Sec. 132. Modification to multiyear procurement authority for C-17 aircraft program.

##### **Subtitle E—Other Matters**

- Sec. 141. Assessments of modernization priorities of the reserve components.
- Sec. 142. Destruction of existing stockpile of lethal chemical agents and munitions.
- Sec. 143. Extension of authority to carry out Armament Retooling and Manufacturing Support Initiative.

## **Subtitle A—Authorization of Appropriations**

### **SEC. 101. ARMY.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Army as follows:

- (1) For aircraft, \$1,314,015,000.
- (2) For missiles, \$1,031,829,000.
- (3) For weapons and tracked combat vehicles, \$1,409,514,000.
- (4) For ammunition, \$1,003,028,000.
- (5) For other procurement, \$2,990,240,000.

**SEC. 102. NAVY AND MARINE CORPS.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Navy as follows:

- (1) For aircraft, \$7,034,926,000.
- (2) For weapons, including missiles and torpedoes, \$1,345,408,000.
- (3) For shipbuilding and conversion, \$6,193,330,000.
- (4) For other procurement, \$2,893,840,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Marine Corps in the amount of \$560,148,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of \$293,239,000.

**SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Air Force as follows:

- (1) For aircraft, \$6,764,420,000.
- (2) For missiles, \$2,525,875,000.
- (3) For ammunition, \$278,302,000.
- (4) For other procurement, \$5,814,419,000.

**SEC. 104. DEFENSE-WIDE ACTIVITIES.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for Defense-wide procurement in the amount of \$2,008,261,000.

**SEC. 105. RESERVE COMPONENTS.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

- (1) For the Army National Guard, \$171,000,000.
- (2) For the Air National Guard, \$234,000,000.
- (3) For the Army Reserve, \$98,000,000.
- (4) For the Naval Reserve, \$116,000,000.
- (5) For the Air Force Reserve, \$94,000,000.
- (6) For the Marine Corps Reserve, \$67,000,000.

**SEC. 106. DEFENSE INSPECTOR GENERAL.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Inspector General of the Department of Defense in the amount of \$2,000,000.

**SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.**

There is hereby authorized to be appropriated for fiscal year 1997 the amount of \$759,847,000 for—

- (1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and
- (2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

**SEC. 108. DEFENSE HEALTH PROGRAMS.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for the Department of Defense for procurement for carrying

out health care programs, projects, and activities of the Department of Defense in the total amount of \$269,470,000.

## **Subtitle B—Army Programs**

### **SEC. 111. REPEAL OF LIMITATION ON PROCUREMENT OF ARMED KIOWA WARRIOR HELICOPTERS.**

Section 133 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1383) is repealed.

### **SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY PROGRAMS.**

(a) AVENGER AIR DEFENSE MISSILE SYSTEM.—Notwithstanding the limitation in subsection (k) of section 2306b of title 10, United States Code, relating to the maximum duration of a multiyear contract under the authority of that section, the Secretary of the Army may extend the multiyear contract in effect during fiscal year 1996 for the Avenger Air Defense Missile system through fiscal year 1997 and may award such an extension.

(b) ARMY TACTICAL MISSILE SYSTEM.—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract, beginning with the fiscal year 1997 program year, for procurement of the Army Tactical Missile System (Army TACMS).

(c) JAVELIN MISSILE SYSTEM.—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into multiyear procurement contracts for the procurement of the Javelin missile system.

### **SEC. 113. BRADLEY TOW 2 TEST PROGRAM SETS.**

Of the funds authorized to be appropriated under section 101(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 204), \$6,000,000 is available for the procurement of Bradley TOW-2 Test Program sets.

## **Subtitle C—Navy Programs**

### **SEC. 121. NUCLEAR ATTACK SUBMARINE PROGRAMS.**

(a) AMOUNTS AUTHORIZED FROM SCN ACCOUNT.—(1) Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 1997—

(A) \$699,071,000 is available for continued construction of the third vessel (designated SSN-23) in the Seawolf attack submarine class, which shall be the final vessel in that class;

(B) \$296,186,000 is available for long-lead and advance construction and procurement of components for construction of a submarine (previously designated by the Navy as the New Attack Submarine) beginning in fiscal year 1998 to be built by Electric Boat Division; and

(C) \$701,000,000 is available for long-lead and advance construction and procurement of components for construction of a second submarine (previously designated by the Navy as the New Attack Submarine) beginning in fiscal year 1999 to be built by Newport News Shipbuilding.

(2) In addition to the purposes for which the amounts under subparagraphs (B) and (C) of paragraph (1) are available, such amounts are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the "Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB) and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine", dated April 5, 1996, relating to design data transfer, design improvements, integrated process teams, and updated design base.

(b) AMOUNTS AUTHORIZED FROM NAVY RDT&E ACCOUNT.—

(1) Of the amount authorized to be appropriated by section 201(2), \$487,611,000 is available for the design of the submarine previously designated by the Navy as the New Attack Submarine.

(2)(A) Of the amount authorized to be appropriated by section 201(2), \$60,000,000 is available for obligation under contracts with Electric Boat Division and Newport News Shipbuilding and other entities to address the inclusion on future nuclear attack submarines of the core advanced technologies that are identified by the Secretary of Defense (in the report of the Secretary entitled "Report on Nuclear Attack Submarine Procurement and Submarine Technology", submitted to Congress on March 26, 1996) as those technologies the maturation of which the Submarine Technology Assessment Panel recommended be addressed in its March 15, 1996, final report to the Assistant Secretary of the Navy for Research, Development, and Acquisition, as follows: hydrodynamics, alternative sail designs, advanced arrays, electric drive, external weapons, and active controls and mounts.

(B) Of the amount available under subparagraph (A), \$20,000,000 shall be equally divided between Electric Boat Division and Newport News Shipbuilding for the purpose of ensuring that those shipbuilders are principal participants in the process of addressing the inclusion of technologies referred to in subparagraph (A) on future nuclear attack submarines. Contracts with the shipbuilders under this subparagraph shall provide the shipbuilders with wide latitude to pursue submarine-wide, integrated systems approaches to the inclusion of such technologies. The Secretary of the Navy shall ensure that those shipbuilders have access for such purpose (under procedures prescribed by the Secretary) to the Navy laboratories and the Office of Naval Intelligence and (in accordance with arrangements to be made by the Secretary) to the Defense Advanced Research Projects Agency.

(3) Of the amount authorized to be appropriated by section 201(2), \$38,000,000 is available to begin funding those Category I and Category II advanced technologies described in Appendix C of the report of the Secretary of Defense referred to in paragraph (2)(A). The Secretary of the Navy shall ensure that Electric Boat Division and Newport News Shipbuilding are also principal participants in the technology initiatives pursued with such funds to ensure submarine-wide, integrated systems approaches to the inclusion of such technologies on future nuclear attack submarines.

(4) In addition to the purposes for which the amounts under paragraphs (1), (2), and (3) are available, such amounts are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the memorandum of agreement referred to in subsection (a)(2) for research and development activities under that memorandum of agreement.

(c) AMOUNT FROM FISCAL YEAR 1996 FUNDS FOR NATIONAL DEFENSE SEALIFT FUND.—(1) Section 132 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 210) is repealed.

(2) The amount referred to in section 132 of the National Defense Authorization Act for Fiscal Year 1996 (as in effect immediately before the repeal by paragraph (1)) shall be available to the Secretary of the Navy for activities relating only to advanced submarine technology that involve the construction of large scale vehicles for purposes of hydrodynamic and hydroacoustic research on developmental designs for hulls and propulsion systems.

(d) CONTRACTS AUTHORIZED.—(1) The Secretary of the Navy is authorized, using funds available pursuant to subparagraphs (B) and (C) of subsection (a)(1), to enter into contracts with Electric Boat Division and Newport News Shipbuilding, and suppliers of components, during fiscal year 1997 for—

(A) the procurement of long-lead components for the fiscal year 1998 submarine and the fiscal year 1999 submarine under this section; and

(B) advance construction of such components and other components for such submarines.

(2) The Secretary may enter into a contract or contracts under this section with the shipbuilder of the fiscal year 1998 submarine only if the Secretary enters into a contract or contracts under this section with the shipbuilder of the fiscal year 1999 submarine.

(e) LIMITATIONS.—(1)(A) Of the amounts specified in subsection (a)(1), not more than \$100,000,000 may be obligated until the Secretary of Defense certifies in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that procurement of nuclear attack submarines described in subparagraph (B) will be under one or more contracts that are entered into after competition between Electric Boat Division and Newport News Shipbuilding in which the Secretary of the Navy solicits competitive proposals and awards the contract or contracts on the basis of price.

Certification.

(B) The submarines referred to in subparagraph (A) are nuclear attack submarines that are to be constructed beginning—

(i) after fiscal year 1999; or

(ii) if four submarines are to be procured as provided for in the plan required under section 131(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 208), after fiscal year 2001.

(2) Of the amounts specified in subsection (a)(1), not more than \$675,000,000 may be obligated until the Under Secretary of Defense for Acquisition and Technology submits to the congressional committees specified in paragraph (1) a report in writing detailing the following:

Reports.

(A) The Under Secretary's oversight activities to date, and plans for the future, for the development and improvement of the nuclear attack submarine program of the Navy as required by section 131(b)(2)(C) of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 207).

(B) The implementation of, and activities conducted under, the program required to be established by the Director of the Defense Advanced Research Projects Agency by section 131(i) of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 210) for the development and demonstration of

advanced submarine technologies and a rapid prototype acquisition strategy for both land-based and at-sea subsystem and system demonstrations of such technologies.

(C) A description of all research, development, test, and evaluation programs, projects, or activities within the Department of Defense which, in the opinion of the Under Secretary, are designed to contribute to the development and demonstration of advanced submarine technologies leading to a more capable, more affordable nuclear attack submarine, specifically identifying ongoing involvement, and plans for future involvement, in any such program, project, or activity by either Electric Boat Division or Newport News Shipbuilding, or by both.

Certification.

(3) Of the amount specified in subsection (b)(1), not more than \$100,000,000 may be obligated or expended until the Under Secretary of Defense (Comptroller) certifies in writing to the congressional committees specified in paragraph (1) that—

(A) funds specified in subsection (c)(2) have been made available for obligation; and

(B) to the extent that funds specified in paragraphs (2) and (3) of subsection (b) have been appropriated for the purposes specified in such paragraphs, such funds have been made available for obligation.

(f) ACQUISITION SIMPLIFICATION.—In furtherance of the direction provided by subsection (d) of section 131 of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 209) to the Secretary of Defense regarding the application of acquisition reform policies and procedures to the submarine program under that section, the Secretary shall direct the Secretary of the Navy to implement for the submarine programs of the Navy acquisition reform initiatives similar in intent and approach to the initiatives begun by the Secretary of the Air Force in May 1995 and referred to as the “Lightning Bolt” initiatives. The Secretary of the Navy shall, not later than March 31, 1997, submit to the congressional committees specified in subsection (e)(1) a report on the results of the implementation of such initiatives.

Reports.

(g) DESIGN RESPONSIBILITY.—(1) The Secretary of the Navy shall carry out the submarine program described in section 131 of the National Defense Authorization Act for Fiscal Year 1996 in a manner that ensures that each of the two shipbuilders involved in the design and construction of the four submarines described in that section be allowed to propose to the Secretary any design improvement that the shipbuilder considers appropriate for the submarines to be built by that shipbuilder as part of those four submarines. The Secretary shall ensure that both shipbuilders have full and open access to all design data concerning the design of the submarine previously designated by the Navy as the New Attack Submarine.

(2) The designs proposed by the shipbuilders should proceed from, but not be limited to, the specific advanced technologies referred to in subsection (b)(2)(A), especially technologies involving hydrodynamics and hydroacoustics concepts.

Reports.

(3) The Secretary shall require both shipbuilders to submit to the Secretary an annual report on the progress of the design work on the submarines referred to in paragraph (1) and shall transmit each such report to the committees specified in subsection (e)(1).

(4) The Secretary shall also submit an annual report to the committees specified in subsection (e)(1) on the design improvements proposed by the two shipbuilders under paragraph (1) for incorporation on any of the four submarines and on the degree to which design information on the base design and design improvements has been shared between the shipbuilders. Each annual report shall set forth each design improvement proposed and whether that proposal was—

(A) reviewed, approved, and funded by the Navy;

(B) reviewed and approved, but not funded; or

(C) not approved, in which case the report shall include the reasons therefor and any views of the shipyard making the proposal.

(5) The reports referred to in paragraphs (3) and (4) shall be submitted concurrently with the annual revisions to the Secretary of Defense's nuclear attack submarine plan required by section 131(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 209).

(h) SERIAL PRODUCTION.—The Secretary of Defense shall modify the plan relating to development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine that was submitted to Congress pursuant to section 131(c) of the National Defense Authorization Act for Fiscal Year 1996 in order to provide in such plan the option for selection of a design for a next submarine for serial production not earlier than fiscal year 2002 (rather than fiscal year 2003, as provided in paragraph (3)(B) of such section 131(c)).

(i) REFERENCES TO SHIPBUILDERS.—For purposes of this section—

(1) the shipbuilder referred to as "Electric Boat Division" is the Electric Boat Division of the General Dynamics Corporation; and

(2) the shipbuilder referred to as "Newport News Shipbuilding" is the Newport News Shipbuilding and Drydock Company.

(j) SUBMARINES DEFINED BY REFERENCE TO FISCAL YEAR.—For purposes of this section—

(1) the term "fiscal year 1998 submarine" means the submarine referred to in subsection (a)(1)(B); and

(2) the term "fiscal year 1999 submarine" means the submarine referred to in subsection (a)(1)(C).

#### SEC. 122. ARLEIGH BURKE CLASS DESTROYER PROGRAM.

(a) FUNDING.—(1) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into during fiscal year 1996 under subsection (b)(1) of section 135 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 211) for construction for the third of the three Arleigh Burke class destroyers covered by that subsection. Such funds are in addition to amounts made available for such contracts by the second sentence of subsection (a) of that section.

(2) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into during fiscal year 1997 under subsection (b)(2) of such section 135 for construction (including advance procurement) for the Arleigh Burke class destroyers covered by such subsection (b)(2).

(3) The aggregate amount of funds available under paragraphs (1) and (2) for contracts referred to in such paragraphs may not exceed \$3,483,030,000.

(4) Within the amount authorized to be appropriated by section 102(a)(3), \$525,000,000 is authorized to be appropriated for advance procurement for construction for the Arleigh Burke class destroyers authorized by subsection (b).

(b) **AUTHORITY FOR MULTIYEAR PROCUREMENT OF TWELVE VESSELS.**—The Secretary of the Navy is authorized, pursuant to section 2306b of title 10, United States Code, to enter into multiyear contracts for the procurement of a total of 12 Arleigh Burke class destroyers at a procurement rate of three ships in each of fiscal years 1998, 1999, 2000, and 2001 in accordance with this subsection and subsection (a)(4), subject to the availability of appropriations for such destroyers. A contract for construction of one or more vessels that is entered into in accordance with this subsection shall include a clause that limits the liability of the Government to the contractor for any termination of the contract.

#### **SEC. 123. EA-6B AIRCRAFT REACTIVE JAMMER PROGRAM.**

(a) **LIMITATION.**—None of the funds appropriated pursuant to section 102(a)(1) for modifications or upgrades of EA-6B aircraft may be obligated, other than for a reactive jammer program for such aircraft, until 30 days after the date on which the Secretary of the Navy submits to the congressional defense committees in writing—

Certification.

(1) a certification that some or all of such funds have been obligated for a reactive jammer program for EA-6B aircraft; and

Reports.

(2) a report that sets forth a detailed, well-defined program for—

(A) developing a reactive jamming capability for EA-6B aircraft; and

(B) upgrading the EA-6B aircraft of the Navy to incorporate the reactive jamming capability.

(b) **CONTINGENT TRANSFER OF FUNDS TO AIR FORCE.**—(1) If the Secretary of the Navy has not submitted the certification and report described in subsection (a) to the congressional defense committees before June 1, 1997, then, on that date, the Secretary of Defense shall transfer to the Air Force, out of appropriations available to the Navy for fiscal year 1997 for procurement of aircraft, the amount equal to the amount appropriated to the Navy for fiscal year 1997 for modifications and upgrades of EA-6B aircraft.

(2) Funds transferred to the Air Force pursuant to paragraph (1) shall be available for maintaining and upgrading the jamming capability of EF-111 aircraft.

#### **SEC. 124. T-39N TRAINER AIRCRAFT FOR THE NAVY.**

The Secretary of the Navy may, using funds appropriated for fiscal year 1996 for procurement of T-39N trainer aircraft for the Navy that remain available for obligation for such purpose, enter into a contract for the acquisition of T-39N aircraft for naval flight officer training that are suitable for low-level training flights. Such a contract may be entered into only after the Secretary complies with section 137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 212).



**SEC. 125. PENGUIN MISSILE PROGRAM.**

(a) **MULTIYEAR PROCUREMENT AUTHORITY.**—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear procurement contracts for the procurement of not more than 106 Penguin missile systems.

(b) **LIMITATION ON TOTAL COST.**—The total amount obligated or expended for procurement of Penguin missile systems under contracts under subsection (a) may not exceed \$84,800,000.

## **Subtitle D—Air Force Programs**

**SEC. 131. REPEAL OF LIMITATION ON PROCUREMENT OF F-15E AIRCRAFT.**

Section 134 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1383) is repealed.

**SEC. 132. MODIFICATION TO MULTIYEAR PROCUREMENT AUTHORITY FOR C-17 AIRCRAFT PROGRAM.**

(a) **MULTIYEAR CONTRACTS AUTHORIZED.**—The Secretary of the Air Force may enter into one or more multiyear contracts for the procurement of C-17 aircraft (including the section 2703 contract entered into before the date of the enactment of this Act under the authority of section 2703 of the Supplemental Appropriations Act of 1996 (title II of Public Law 104-134)). The total number of aircraft contracted to be procured under such multiyear contracts may not exceed 80. Any such contract shall be entered into in accordance with section 2306b of title 10, United States Code (and subject to such modifications as may be authorized by law in the maximum period for such contracts specified in subsection (k) of such section).

(b) **REQUIREMENT TO NEGOTIATE OPTION TO CONVERT EXISTING CONTRACT TO SIX PROGRAM YEARS.**—The Secretary of the Air Force shall negotiate with the prime contractor for the C-17 aircraft program so as to achieve a contract option for the United States under the section 2703 contract to convert the multiyear procurement period under that contract to a period of six program years based upon the level of funding for that program for fiscal year 1997.

(c) **CONTRACT PERIOD.**—A contract entered into after the date of the enactment of this Act on a multiyear basis under the authority of subsection (a) may (notwithstanding section 2306b(k) of title 10, United States Code) be for a period of six program years.

(d) **SECTION 2703 CONTRACT DEFINED.**—For purposes of this section, the term “section 2703 contract” means the contract entered into by the Secretary of the Air Force on May 31, 1996, with the prime contractor for the C-17 aircraft program under the authority of section 2703 of the Supplemental Appropriations Act of 1996 (title II of Public Law 104-134) providing for a multiyear procurement of C-17 aircraft over seven program years with an option for the Secretary to convert that period to six program years.

## Subtitle E—Other Matters

### SEC. 141. ASSESSMENTS OF MODERNIZATION PRIORITIES OF THE RESERVE COMPONENTS.

(a) **ASSESSMENTS REQUIRED.**—Not later than December 1, 1996, each officer referred to in subsection (b) shall submit to the congressional defense committees an assessment of the modernization priorities established for the reserve component or reserve components for which that officer is responsible.

(b) **RESPONSIBLE OFFICERS.**—The officers required to submit a report under subsection (a) are as follows:

- (1) The Chief of the National Guard Bureau.
- (2) The Chief of Army Reserve.
- (3) The Chief of Air Force Reserve.
- (4) The Director of Naval Reserve.
- (5) The Commanding General, Marine Forces Reserve.

### SEC. 142. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

Section 152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 214; 50 U.S.C. 1521 note) is amended by adding at the end the following new subsections:

“(e) **ASSESSMENT OF ALTERNATIVE TECHNOLOGIES FOR DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS.**—(1) In addition to the assessment required by subsection (c), the Secretary of Defense shall conduct an assessment of the chemical demilitarization program for destruction of assembled chemical munitions and of the alternative demilitarization technologies and processes (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated with these munitions, while ensuring maximum protection for the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public and reduce the total cost of the chemical agents and munitions destruction program. The assessment shall be conducted without regard to any limitation that would otherwise apply to the conduct of such assessment under any provision of law.

“(2) The assessment shall be conducted in coordination with the National Research Council.

“(3) Among the alternatives, the assessment shall include a determination of the cost of incineration of the current chemical munitions stockpile by building incinerators at each existing facility compared to the proposed cost of dismantling those same munitions, neutralizing them at each storage site (other than Tooele Army Depot or Johnston Atoll), and transporting the neutralized remains and all munitions parts to a treatment, storage, and disposal facility within the United States that has the necessary environmental permits to undertake incineration of the material.

“(4) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

“(5) Not later than December 31, 1997, the Secretary of Defense shall submit to Congress a report on the assessment conducted in accordance with paragraph (1) and any recommendations for

Reports.

revision of the chemical demilitarization program, including the continued development of alternative demilitarization technologies and processes other than incineration that could be used for the destruction of the lethal chemical agents that are associated with these assembled chemical munitions and the chemical munitions demilitarization sites for which the selected technologies should be developed.

“(f) PILOT PROGRAM FOR DEMILITARIZATION OF CHEMICAL AGENTS FOR ASSEMBLED MUNITIONS.—(1) If the Secretary of Defense makes a decision to continue the development of an alternative demilitarization technology or process (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated with assembled chemical munitions, \$25,000,000 shall be available from the funds authorized to be appropriated in section 107 of the National Defense Authorization Act for Fiscal Year 1997 for the chemical agents and munitions destruction program, in order to initiate a pilot program using the selected alternative technology or process for the destruction of chemical agents that are stored at these sites.

“(2) Not less than 30 days before using funds to initiate the pilot program under paragraph (1), the Secretary shall submit notice in writing to Congress of the Secretary’s intent to do so. Notice.

“(3) The pilot program shall be conducted at the selected chemical agent and munitions stockpile storage site for which the alternative technology or process is recommended.”.

#### **SEC. 143. EXTENSION OF AUTHORITY TO CARRY OUT ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.**

Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102-484; 10 U.S.C. 2501 note) is amended by striking out “During fiscal years 1993 through 1996” and inserting in lieu thereof “During fiscal years 1993 through 1998”.

## **TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

### **Subtitle A—Authorization of Appropriations**

- Sec. 201. Authorization of appropriations.
- Sec. 202. Amount for basic and applied research.
- Sec. 203. Dual-use technology programs.
- Sec. 204. Defense Special Weapons Agency.

### **Subtitle B—Program Requirements, Restrictions, and Limitations**

- Sec. 211. Space launch modernization.
- Sec. 212. Space-Based Infrared System program.
- Sec. 213. Clementine 2 micro-satellite development program.
- Sec. 214. Live-fire survivability testing of V-22 Osprey aircraft.
- Sec. 215. Live-fire survivability testing of F-22 aircraft.
- Sec. 216. Limitation on funding for F-16 tactical manned reconnaissance aircraft.
- Sec. 217. Cost analysis of F-22 aircraft program.
- Sec. 218. F-22 aircraft program reports.
- Sec. 219. Cost-benefit analysis of F/A-18E/F aircraft program.
- Sec. 220. Joint Advanced Strike Technology (JAST) program.
- Sec. 221. Unmanned aerial vehicles.
- Sec. 222. High altitude endurance unmanned aerial reconnaissance system.
- Sec. 223. Cyclone class patrol craft self-defense.
- Sec. 224. One-year extension of deadline for delivery of Enhanced Fiber Optic Guided Missile (EFOG-M) system.
- Sec. 225. Hydra-70 rocket product improvement program.

- Sec. 226. Federally funded research and development centers.
- Sec. 227. Demilitarization of conventional munitions, rockets, and explosives.
- Sec. 228. Research activities of the Defense Advanced Research Projects Agency relating to chemical and biological warfare defense technology.
- Sec. 229. Certification of capability of United States to prevent illegal importation of nuclear, biological, or chemical weapons.
- Sec. 230. Nonlethal weapons and technologies programs.
- Sec. 231. Counterproliferation support program.

#### **Subtitle C—Ballistic Missile Defense Programs**

- Sec. 241. Funding for ballistic missile defense programs for fiscal year 1997.
- Sec. 242. Certification of capability of United States to defend against single ballistic missile.
- Sec. 243. Report on ballistic missile defense and proliferation.
- Sec. 244. Revision to annual report on ballistic missile defense program.
- Sec. 245. Report on Air Force National Missile Defense Plan.
- Sec. 246. Capability of National Missile Defense system.
- Sec. 247. Actions to limit adverse effects on private sector employment of establishment of National Missile Defense Joint Program Office.
- Sec. 248. ABM Treaty defined.

#### **Subtitle D—Other Matters**

- Sec. 261. Maintenance and repair at Air Force installations.
- Sec. 262. Report relating to Small Business Innovation Research Program.
- Sec. 263. Amendment to University Research Initiative Support program.
- Sec. 264. Amendments to Defense Experimental Program To Stimulate Competitive Research.
- Sec. 265. Elimination of report on the use of competitive procedures for the award of certain contracts to colleges and universities.
- Sec. 266. Pilot program for transfer of defense technology information to private industry.
- Sec. 267. Research under transactions other than contracts and grants.
- Sec. 268. Desalting technologies.
- Sec. 269. Evaluation of digital video network equipment used in Olympic games.
- Sec. 270. Annual joint warfighting science and technology plan.

#### **Subtitle E—National Oceanographic Partnership Program**

- Sec. 281. Findings.
- Sec. 282. National Oceanographic Partnership Program.

## **Subtitle A—Authorization of Appropriations**

### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Department of Defense for research, development, test, and evaluation as follows:

- (1) For the Army, \$4,780,615,000.
- (2) For the Navy, \$8,068,299,000.
- (3) For the Air Force, \$14,756,366,000.
- (4) For Defense-wide activities, \$9,691,293,000, of which—
  - (A) \$269,038,000 is authorized for the activities of the Director, Test and Evaluation; and
  - (B) \$21,968,000 is authorized for the Director of Operational Test and Evaluation.

### **SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.**

(a) FISCAL YEAR 1997.—Of the amounts authorized to be appropriated by section 201, \$4,031,343,000 shall be available for basic research and applied research projects.

(b) BASIC RESEARCH AND APPLIED RESEARCH DEFINED.—For purposes of this section, the term “basic research and applied research” means work funded in program elements for defense

research and development under Department of Defense category 6.1 or 6.2.

**SEC. 203. DUAL-USE TECHNOLOGY PROGRAM.**

(a) **ALLOCATION OF FUNDS.**—Of the amount appropriated pursuant to the authorization in section 201(4), \$85,000,000 shall be available for the dual-use technology program under this section.

(b) **DESIGNATION OF OFFICIAL FOR DUAL-USE PROGRAM.**—(1) The Secretary of Defense shall designate a senior official in the Office of the Secretary of Defense to have as that official's sole responsibilities developing policy relating to, and ensuring effective implementation of, the dual-use technology program of the Department of Defense. In carrying out such responsibilities, the official shall ensure—

(A) that commercial technologies are integrated into current and future military systems to the maximum extent practicable;

(B) that dual-use projects are coordinated with the joint warfighting science and technology plan referred to in section 270; and

(C) that dual-use projects of the military departments and the defense agencies are coordinated and avoid unnecessary duplication.

(2) The senior official designated under paragraph (1) shall carry out such responsibilities during the period beginning on October 1, 1996, and ending on September 30, 2000. Such official shall report directly to the Under Secretary of Defense for Acquisition and Technology.

Effective date.  
Termination  
date.

(c) **FUNDING REQUIREMENT.**—Of the amounts appropriated pursuant to the authorizations in section 201 for the Department of Defense for science and technology programs for fiscal year 1997, at least 5 percent of such amounts shall be available only for dual-use projects of the Department of Defense. The funds made available under the preceding sentence are in addition to the funds made available under subsection (a).

(d) **LIMITATION ON OBLIGATIONS.**—Funds made available pursuant to subsections (a) and (c) may be used for a dual-use project only if the contract, cooperative agreement, or other transaction by which the project is carried out is entered into through the use of competitive procedures.

(e) **TRANSFER AUTHORITY.**—In addition to the transfer authority provided in section 1001, the Secretary of Defense may transfer funds made available pursuant to subsections (a) and (c) for a dual-use project from a military department or defense agency to another military department or defense agency to ensure efficient implementation of the dual-use technology program. The Secretary may delegate the authority provided in the preceding sentence to the senior official designated under subsection (b).

(f) **FEDERAL COST SHARE.**—The share contributed by the Secretary of a military department or the head of a defense agency for the cost of a dual-use project during fiscal year 1997 may not be greater than 50 percent of the cost of the project for that fiscal year.

(g) **REPORT.**—At the same time the President submits to Congress the budget for fiscal year 1998 pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report that specifies the investment strategy

for the dual-use technology program to be conducted during fiscal years 1998, 1999, and 2000.

(h) DEFINITIONS.—In this section:

(1) The term “dual-use technology program” means the program of the Department of Defense under which research or development of a dual-use technology (as defined in section 2491 of title 10, United States Code) is carried out and the costs of which are shared between the Department of Defense and non-Government entities. The term includes the dual-use critical technology program established pursuant to section 2511 of title 10, United States Code.

(2) The term “dual-use project” means a project under the dual-use technology program.

(3) The term “science and technology program” means a program of a military department under which basic research, applied research, or advanced technology development is carried out.

#### SEC. 204. DEFENSE SPECIAL WEAPONS AGENCY.

There is hereby authorized to be appropriated for fiscal year 1997 the amount of \$314,313,000 for the Defense Special Weapons Agency, of which—

- (1) \$7,900,000 is for procurement;
- (2) \$218,330,000 is for research, development, test, and evaluation; and
- (3) \$88,083,000 is for operations and maintenance.

### Subtitle B—Program Requirements, Restrictions, and Limitations

#### SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) FUNDING.—Funds appropriated pursuant to the authorization of appropriations in section 201(3) are authorized to be made available for space launch modernization for purposes and in amounts as follows:

- (1) For the Evolved Expendable Launch Vehicle program, \$44,457,000.
- (2) For a competitive reusable launch vehicle program (program element 63401F), \$25,000,000.

(b) LIMITATIONS.—(1) Of the funds made available for the reusable launch vehicle program pursuant to subsection (a)(2), the total amount obligated for such purpose may not exceed the total amount allocated in the fiscal year 1997 current operating plan of the National Aeronautics and Space Administration for the Reusable Space Launch program of the National Aeronautics and Space Administration.

(2) Of the funds made available for the Evolved Expendable Launch Vehicle program pursuant to subsection (a)(1), the total amount obligated for such purpose may not exceed \$20,000,000 until the Secretary of Defense certifies to Congress that the Secretary has made available for obligation the funds, if any, that are made available for the Reusable Launch Vehicle program pursuant to subsection (a)(2).

(c) COORDINATION OF ENGINE TESTING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space

Plans.

Administration shall submit to Congress a joint plan for coordinating and eliminating unnecessary duplication in the operations and planned improvements of rocket engine and rocket engine component test facilities managed by the Department of the Air Force and the National Aeronautics and Space Administration. The plan shall provide, to the extent practical, for the development of commonly funded and commonly operated facilities.

**SEC. 212. SPACE-BASED INFRARED SYSTEM PROGRAM.**

(a) **FUNDING.**—Funds appropriated pursuant to the authorization of appropriations in section 201(3) are authorized to be made available for the Space-Based Infrared System program for purposes and in amounts as follows:

- (1) For Space Segment High, \$173,290,000.
- (2) For Space Segment Low (the Space and Missile Tracking System), \$247,221,000.
- (3) For Cobra Brass, \$6,930,000.

(b) **LIMITATION.**—Not more than \$100,000,000 of the funds authorized to be made available under subsection (a)(1) may be obligated or expended until the Secretary of Defense certifies to Congress that the Secretary has made available the funds authorized to be made available under subsection (a)(2) for the purpose of accelerating the deployment of the Space Segment Low (the Space and Missile Tracking System).

Certification.

(c) **PROGRAM MANAGEMENT.**—Before the submission of the President's budget for fiscal year 1998, the Secretary of Defense shall conduct a review of the appropriate management responsibilities for the Space and Missile Tracking System, including whether transferring such management responsibility from the Air Force to the Ballistic Missile Defense Organization would result in improved program efficiencies and support.

Review.

**SEC. 213. CLEMENTINE 2 MICRO-SATELLITE DEVELOPMENT PROGRAM.**

(a) **AMOUNT FOR PROGRAM.**—Of the amount authorized to be appropriated under section 201(3), \$50,000,000 shall be available for the Clementine 2 micro-satellite near-Earth asteroid interception mission.

(b) **LIMITATION.**—Of the funds authorized to be appropriated pursuant to this Act for the global positioning system (GPS) Block II F Satellite system, not more than \$25,000,000 may be obligated until the Secretary of Defense certifies to Congress that—

Certification.

(1) funds appropriated for fiscal year 1996 for the Clementine 2 Micro-Satellite development program have been obligated in accordance with Public Law 104-106 and the Joint Explanatory Statement of the Committee of Conference accompanying S. 1124 (House Report 104-450 (104th Congress, second session)); and

(2) the Secretary has made available for obligation the funds appropriated for fiscal year 1997 for the purpose specified in subsection (a).

**SEC. 214. LIVE-FIRE SURVIVABILITY TESTING OF V-22 OSPREY AIRCRAFT.**

(a) **AUTHORITY FOR RETROACTIVE WAIVER.**—The Secretary of Defense may, in accordance with section 2366(c) of title 10, United States Code, waive for the V-22 Osprey aircraft program the survivability tests required by that section, notwithstanding that such program has entered engineering and manufacturing development.

(b) **REPORT TO CONGRESS.**—In exercising the waiver authority in section 2366(c) of title 10, United States Code, the Secretary shall submit to Congress a report explaining how the Secretary plans to evaluate the survivability of the V-22 Osprey aircraft system and assessing possible alternatives to realistic survivability testing of the system.

(c) **ALTERNATIVE SURVIVABILITY TEST REQUIREMENTS.**—If the Secretary of Defense submits in accordance with section 2366(c)(1) of title 10, United States Code, a certification that live-fire testing of the V-22 Osprey aircraft would be unreasonably expensive and impractical, the Secretary shall require that components critical to the survivability of the V-22 Osprey aircraft be subjected to live-fire testing under an alternative live-fire testing program that, by reason of the number of such components tested and the realism of the threat environments under which the components are tested, will yield test results that provide a sufficient basis for drawing meaningful conclusions about the survivability of V-22 Osprey aircraft.

(d) **FUNDING.**—The funds required to carry out any alternative live-fire testing of the V-22 Osprey aircraft system shall be made available from amounts appropriated for the V-22 Osprey program.

#### **SEC. 215. LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.**

(a) **AUTHORITY FOR RETROACTIVE WAIVER.**—The Secretary of Defense may, in accordance with section 2366(c) of title 10, United States Code, waive for the F-22 aircraft program the survivability tests required by that section, notwithstanding that such program has entered engineering and manufacturing development.

(b) **ALTERNATIVE SURVIVABILITY TEST REQUIREMENTS.**—If the Secretary of Defense submits in accordance with section 2366(c)(1) of title 10, United States Code, a certification that live-fire testing of the F-22 aircraft would be unreasonably expensive and impractical, the Secretary shall require that components and subsystems critical to the survivability of the F-22 aircraft be subjected to live-fire testing under an alternative live-fire testing program that, by reason of the number of such components and subsystems tested and the realism of the threat environments under which the components and subsystems are tested, will yield test results that provide a sufficient basis for drawing meaningful conclusions about the survivability of F-22 aircraft.

(c) **FUNDING.**—The funds required to carry out any alternative live-fire testing of the F-22 aircraft system shall be made available from amounts appropriated for the F-22 program.

#### **SEC. 216. LIMITATION ON FUNDING FOR F-16 TACTICAL MANNED RECONNAISSANCE AIRCRAFT.**

Effective date.

(a) **LIMITATION.**—Effective on the date of the enactment of this Act, not more than \$50,000,000 (in fiscal year 1997 constant dollars) may be obligated or expended for—

(1) research, development, test, and evaluation for, and acquisition and modification of, the F-16 tactical manned reconnaissance aircraft program; and

(2) costs associated with the termination of such program.

(b) **EXCEPTION.**—The limitation in subsection (a) shall not apply to obligations required for improvements planned before the date of the enactment of this Act to incorporate the common data link into the F-16 tactical manned reconnaissance aircraft.



**SEC. 217. COST ANALYSIS OF F-22 AIRCRAFT PROGRAM.**

(a) **REVIEW AND REPORT.**—The Secretary of Defense shall direct the Cost Analysis Improvement Group in the Office of the Secretary of Defense to review the F-22 aircraft program, analyze and estimate the production costs of the program, and submit to the Secretary a report on the results of the review.

(b) **CONTENT OF REPORT.**—The report shall include—

(1) a comparison of—

(A) the results of the review, with

(B) the results of the last independent estimate of production costs of the program that was prepared by the Cost Analysis Improvement Group in July 1991; and

(2) a description of any major changes in programmatic assumptions that have occurred since the estimate referred to in paragraph (1)(B) was made, including any major change in assumptions regarding the program schedule, the quantity of aircraft to be developed and acquired, and the annual rates of production, together with an assessment of the effects of such changes on the program.

(c) **SUBMISSION OF REPORT.**—Not later than March 30, 1997, the Secretary shall submit the report to the congressional defense committees, together with the Secretary's views on the matters covered by the report.

(d) **LIMITATION ON USE OF FUNDS PENDING SUBMISSION OF REPORT.**—Not more than 92 percent of the funds appropriated for the F-22 aircraft program pursuant to the authorization of appropriations in section 103(1) may be expended until the Secretary of Defense submits the report required under this section.

**SEC. 218. F-22 AIRCRAFT PROGRAM REPORTS.**

(a) **ANNUAL REPORT.**—(1) At the same time that the President submits the budget for a fiscal year to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on event-based decisionmaking for the F-22 aircraft program for that fiscal year. The Secretary shall submit the report for fiscal year 1997 not later than October 1, 1996.

(2) The report for a fiscal year shall include the following:

(A) A discussion of each decision known within the Department of Defense as an "event-based decision" that is expected to be made during that fiscal year regarding whether the F-22 program is to proceed into a new phase or into a new administrative subdivision of a phase.

(B) The criteria known within the Department of Defense as "exit criteria" to be applied, for purposes of making the event-based decision, in determining whether the F-22 aircraft program has demonstrated the specific progress necessary for proceeding into the new phase or administrative subdivision of a phase.

(b) **REPORT ON EVENT-BASED DECISIONS.**—Not later than 30 days after an event-based decision has been made for the F-22 aircraft program, the Secretary of Defense shall submit to Congress a report on the decision. The report shall include the following:

(1) A discussion of the commitments made, and the commitments to be made, under the program as a result of the decision.

(2) The exit criteria applied for purposes of the decision.

(3) How, in terms of the exit criteria, the program demonstrated the specific progress justifying the decision.

**SEC. 219. COST-BENEFIT ANALYSIS OF F/A-18E/F AIRCRAFT PROGRAM.**

(a) **REPORT ON PROGRAM.**—Not later than March 30, 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the F/A-18E/F aircraft program.

(b) **CONTENT OF REPORT.**—The report shall contain the following:

- (1) A review of the F/A-18E/F aircraft program.
- (2) An analysis and estimate of the production costs of the program for the total number of aircraft realistically expected to be procured at each of three annual production rates as follows:
  - (A) 18 aircraft.
  - (B) 24 aircraft.
  - (C) 36 aircraft.

(3) A comparison of the costs and benefits of the program with the costs and benefits of the F/A-18C/D aircraft program taking into account the operational combat effectiveness of the aircraft.

(c) **LIMITATION ON USE OF FUNDS PENDING SUBMISSION OF REPORT.**—Not more than 90 percent of the funds authorized to be appropriated by this Act for the procurement of F/A-18E/F aircraft may be obligated or expended for procurement of such aircraft before the date that is 30 days after the date on which the congressional defense committees receive the report required under subsection (a).

**SEC. 220. JOINT ADVANCED STRIKE TECHNOLOGY (JAST) PROGRAM.**

(a) **ALLOCATION OF FUNDS.**—Of the amounts authorized to be appropriated pursuant to the authorizations in section 201, \$602,069,000 shall be available only for advanced technology development for the Joint Advanced Strike Technology (JAST) program. Of that amount—

(1) \$259,833,000 shall be available only for program element 63800N in the budget of the Department of Defense for fiscal year 1997;

(2) \$263,836,000 shall be available only for program element 63800F in the budget of the Department of Defense for fiscal year 1997; and

(3) \$78,400,000 shall be available only for program element 63800E in the budget of the Department of Defense for fiscal year 1997.

(b) **ANALYSIS OF FORCE STRUCTURE.**—Of the amounts authorized to be appropriated by section 201 for the Joint Advanced Strike Technology program, up to \$10,000,000 shall be available for the conduct of an analysis by the Institute for Defense Analyses of the following:

(1) The weapon systems force structure required to meet the anticipated range of threats projected by the intelligence community for the period 2000 through 2025.

(2) Alternative force mixes, including, at a minimum, the following force mixes:

(A) Joint Strike Fighter derivative aircraft; remanufactured AV-8 aircraft; F-18C/D, F-18E/F, AH-64, AH-1W, RAH-66, F-14, F-16, F-15, F-117, F-22, B-1, B-2, and

B-52 aircraft; and air-to-surface and surface-to-surface weapons systems.

(B) Joint Strike Fighter derivative aircraft; remanufactured AV-8 aircraft; F-18C/D, F-18E/F, F-14, F-16, F-15, F-117, and F-22 aircraft; and air-to-surface and surface-to-surface weapons systems.

(3) Cost and operational effectiveness of the alternative force mixes analyzed under paragraph (2), including sensitivity analyses related to system performance, costs, threats, and force employment scenarios.

(4) Required operational capability dates of systems not yet in production for the force mixes analyzed under paragraph (2).

(5) Affordability, commonality, and roles and missions considerations related to the alternative force mixes analyzed under paragraph (2).

(c) **COST REVIEW OF FORCE STRUCTURE ANALYSIS.**—The Secretary of Defense shall direct the Cost Analysis Improvement Group in the Office of the Secretary of Defense to review cost estimates made under the analysis conducted under subsection (b) and submit to the Secretary a report on the results of the review. The report may include comments and additional cost sensitivity analyses.

Reports.

(d) **BRIEFING AND REPORT.**—(1) Not later than November 15, 1996, the Secretary of Defense shall make available to the congressional defense committees a briefing on the plan and assumptions for the analysis to be conducted under subsection (b).

(2) Not later than May 15, 1997, the Secretary of Defense shall submit to the congressional defense committees a report containing a copy of the analysis conducted under subsection (b) and of the cost review conducted under subsection (c), together with the views of the Secretary on such analysis and cost review.

#### **SEC. 221. UNMANNED AERIAL VEHICLES.**

(a) **PROCUREMENT FUNDING REQUEST.**—The funding request for procurement for unmanned aerial vehicles for any fiscal year shall be set forth under the funding requests for the military departments in the budget of the Department of Defense.

(b) **TRANSFER OF PROGRAM MANAGEMENT.**—Program management for the Predator Unmanned Aerial Vehicle, and programmed funding for such vehicle for fiscal years 1998, 1999, 2000, 2001, and 2002 (as set forth in the future-years defense program), shall be transferred to the Department of the Air Force, effective October 1, 1996, or the date of the enactment of this Act, whichever is later.

Effective date.

(c) **PROHIBITION ON PROVIDING OPERATING CAPABILITY FROM NAVAL VESSELS.**—No funds authorized to be appropriated by this Act may be obligated for purposes of providing the capability of the Predator Unmanned Aerial Vehicle to operate from naval vessels.

#### **SEC. 222. HIGH ALTITUDE ENDURANCE UNMANNED AERIAL RECONNAISSANCE SYSTEM.**

Any concepts for an improved Tier III Minus (High Altitude Endurance Unmanned Aerial Reconnaissance) system, developed using funds authorized to be appropriated under this title, that would increase the unit flyaway cost for such system to an amount greater than the unit flyaway cost established in either of the original contracts for such system, may not be carried out under

the original contracts, but must instead be carried out under another contract that is awarded using competitive procedures.

**SEC. 223. CYCLONE CLASS PATROL CRAFT SELF-DEFENSE.**

(a) **STUDY REQUIRED.**—The Secretary of Defense shall perform a study of the operational requirements for vessel self-defense for the Cyclone class patrol craft and a comparative evaluation of the potential means for meeting the operational requirements for self-defense of the craft. The study shall consider the range of operational scenarios in which the craft is expected to be employed.

(b) **SYSTEMS TO BE EVALUATED.**—The study under subsection (a) shall consider those self-defense systems that could be employed aboard the Cyclone class patrol craft, including the Barak ship self-defense missile system.

(c) **REPORT.**—Not later than March 31, 1997, the Secretary shall submit to Congress a report containing the results of the study under subsection (a).

**SEC. 224. ONE-YEAR EXTENSION OF DEADLINE FOR DELIVERY OF ENHANCED FIBER OPTIC GUIDED MISSILE (EFOG-M) SYSTEM.**

Section 272(a)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 239) is amended by striking out “September 30, 1998,” and inserting in lieu thereof “September 30, 1999.”

**SEC. 225. HYDRA-70 ROCKET PRODUCT IMPROVEMENT PROGRAM.**

(a) **FUNDING AUTHORIZATION.**—Of the amount authorized to be appropriated under section 201(1) for the Army for Other Missile Product Improvement Programs, \$9,000,000 is authorized as specified in subsection (b) for completion of the Hydra-70 product improvement program authorized for fiscal year 1996.

(b) **AUTHORIZED ACTIONS.**—Funding is authorized to be appropriated for the following:

(1) Procurement for test and flight qualification of at least one nondevelopmental item 2.75-inch composite rocket motor propellant type, along with other nondevelopmental item candidate motors that use composite propellant as the propulsion component.

(2) Platform integration, including additional quantities of the motor chosen for operational certification on the Apache attack helicopter.

(c) **DEFINITION.**—In this section, the term “nondevelopmental item” has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

**SEC. 226. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.**

(a) **CENTERS COVERED.**—Funds authorized to be appropriated for the Department of Defense for fiscal year 1997 under section 201 may be obligated to procure work from a federally funded research and development center (in this section referred to as an “FFRDC”) only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) **REPORT ON ALLOCATIONS FOR CENTERS.**—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary

of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing—

(A) the name of each FFRDC from which work is proposed to be procured for the Department of Defense for fiscal year 1997;

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1997; and

(C) for each such center, an unambiguous definition of the unique core competencies required to be maintained for fiscal year 1997.

(2) The total of the proposed funding levels set forth in the report for all FFRDCs may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—Not more than 15 percent of the funds authorized to be appropriated for the Department of Defense for fiscal year 1997 for FFRDCs under section 201 may be obligated to procure work from an FFRDC until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—(1) Subject to paragraph (2), of the amounts authorized to be appropriated by section 201, not more than a total of \$1,214,650,000 may be obligated to procure services from the FFRDCs named in the report required by subsection (b).

(2) The limitation in paragraph (1) does not apply to funds obligated for the procurement of equipment for FFRDCs.

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to an FFRDC. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies those committees of that determination and the reasons for the determination.

Notice.

#### SEC. 227. DEMILITARIZATION OF CONVENTIONAL MUNITIONS, ROCKETS, AND EXPLOSIVES.

(a) ESTABLISHMENT OF CONVENTIONAL MUNITIONS, ROCKETS, AND EXPLOSIVES DEMILITARIZATION PROGRAM.—The Secretary of Defense shall establish an integrated program for the development and demonstration of technologies for the demilitarization and disposal of conventional munitions, rockets, and explosives in a manner that complies with applicable environmental laws.

(b) DURATION OF PROGRAM.—The program established pursuant to subsection (a) shall be in effect for a period of at least five years, beginning with fiscal year 1997.

Effective date.

(c) FUNDING.—Of the amount authorized to be appropriated in section 201, \$15,000,000 is authorized to be appropriated for the program established pursuant to subsection (a). The funding request for the program shall be set forth separately in the budget

justification documents for the budget of the Department of Defense for each fiscal year during which the program is in effect.

(d) **REPORTS.**—The Secretary of Defense shall submit to Congress a report on the plan for the program established pursuant to subsection (a) at the same time the President submits to Congress the budget for fiscal year 1998. The Secretary shall submit an updated version of such report, setting forth in detail the progress of the program, at the same time the President submits the budget for each fiscal year after fiscal year 1998 during which the program is in effect.

**SEC. 228. RESEARCH ACTIVITIES OF THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY RELATING TO CHEMICAL AND BIOLOGICAL WARFARE DEFENSE TECHNOLOGY.**

(a) **AUTHORITY.**—Section 1701(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1853; 50 U.S.C. 1522) is amended—

(1) by inserting “(1)” before “The Secretary”; and

(2) by adding at the end the following new paragraph:

“(2) The Director of the Defense Advanced Research Projects Agency may conduct a program of basic and applied research and advanced technology development on chemical and biological warfare defense technologies and systems. In conducting such program, the Director shall seek to avoid unnecessary duplication of the activities under the program with chemical and biological warfare defense activities of the military departments and defense agencies and shall coordinate the activities under the program with those of the military departments and defense agencies.”

(b) **FUNDING.**—Section 1701(d) of such Act is amended—

(1) in paragraph (1), by striking out “military departments” and inserting in lieu thereof “Department of Defense”; and

(2) in paragraph (2), by inserting after “requests for the program” in the first sentence the following: “(other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2))”;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

“(3) The program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2) shall be set forth as a separate program element in the budget of that agency.”

President.

**SEC. 229. CERTIFICATION OF CAPABILITY OF UNITED STATES TO PREVENT ILLEGAL IMPORTATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS.**

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification in writing stating specifically whether or not the United States has the capability (as of the date of the certification) to prevent the illegal importation of nuclear, biological, and chemical weapons into the United States and its possessions.

**SEC. 230. NONLETHAL WEAPONS AND TECHNOLOGIES PROGRAMS.**

(a) **FUNDING.**—Of the amount authorized to be appropriated under section 201(2), \$15,000,000 shall be available for joint service research, development, test, and evaluation of nonlethal weapons and nonlethal technologies under the program element established pursuant to subsection (b).

(b) **NEW PROGRAM ELEMENT REQUIRED.**—The Secretary of Defense shall establish a new program element for the funds authorized to be appropriated under subsection (a). The funds within that program element shall be administered by the executive agent designated for joint service research, development, test, and evaluation of nonlethal weapons and nonlethal technologies.

**SEC. 231. COUNTERPROLIFERATION SUPPORT PROGRAM.**

(a) **FUNDING.**—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), \$186,200,000 shall be available for the Counterproliferation Support Program, of which \$75,000,000 shall be available for a tactical antisatellite technologies program.

(b) **ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.**—

(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1997 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed \$50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection. Notification.

(c) **LIMITATION ON USE OF FUNDS FOR TECHNICAL STUDIES AND ANALYSES PENDING RELEASE OF FUNDS.**—(1) None of the funds authorized to be appropriated to the Department of Defense for fiscal year 1997 for program element 605104D, relating to technical studies and analyses, may be obligated or expended until the funds referred to in paragraph (2) have been released to the program manager of the tactical anti-satellite technology program for implementation of that program.

(2) The funds for release referred to in paragraph (1) are as follows:

(A) Funds authorized to be appropriated by section 218(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 222) that are available for the program referred to in paragraph (1).

(B) Funds authorized to be appropriated to the Department for fiscal year 1997 by this Act for the Counterproliferation

Support Program that are to be made available for that program.

## Subtitle C—Ballistic Missile Defense Programs

### SEC. 241. FUNDING FOR BALLISTIC MISSILE DEFENSE PROGRAMS FOR FISCAL YEAR 1997.

(a) PROGRAM AMOUNTS.—Of the amount appropriated pursuant to section 201(4), the following amounts may be obligated for the following systems managed by the Ballistic Missile Defense Organization:

(1) For the Theater High Altitude Area Defense (THAAD) System, \$621,798,000.

(2) For the Navy Upper Tier (Theater Wide) system, \$304,171,000.

(3) For the National Missile Defense System, \$858,437,000.

(4) For the Corps Surface-to-Air Missile (SAM)/Medium Extended Air Defense System (MEADS), \$56,200,000.

Certification.

(b) LIMITATION.—None of the funds appropriated or otherwise made available for the Department of Defense pursuant to this or any other Act may be obligated or expended by the Office of the Under Secretary of Defense for Acquisition and Technology for official representation activities, or related activities, until the Secretary of Defense certifies to Congress that—

(1) the Secretary has made available for obligation the funds provided under subsection (a) for the purposes specified in that subsection and in the amounts appropriated pursuant to that subsection; and

(2) the Secretary has included the Navy Upper Tier theater missile defense system in the theater missile defense core program.

(c) LIMITATIONS.—Not more than \$15,000,000 of the amount available for the Corps SAM/MEADS program under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees the following:

(1) An initial program estimate for the Corps SAM/MEADS program, including a tentative schedule of major milestones and an estimate of the total program cost through initial operational capability.

Reports.

(2) A report on the options associated with the use of existing systems, technologies, and program management mechanisms to satisfy the requirement for the Corps surface-to-air missile, including an assessment of cost and schedule implications in relation to the program estimate submitted under paragraph (1).

Certification.

(3) A certification that there will be no increase in overall United States funding commitment to the project definition and validation phase of the Corps SAM/MEADS program as a result of the withdrawal of France from participation in the program.

President.

### SEC. 242. CERTIFICATION OF CAPABILITY OF UNITED STATES TO DEFEND AGAINST SINGLE BALLISTIC MISSILE.

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification



in writing stating specifically whether or not the United States has the military capability (as of the time of the certification) to intercept and destroy a single ballistic missile launched at the territory of the United States.

**SEC. 243. REPORT ON BALLISTIC MISSILE DEFENSE AND PROLIFERATION.**

The Secretary of Defense shall submit to Congress a report on ballistic missile defense and the proliferation of weapons of mass destruction, including nuclear, chemical, and biological weapons, and the missiles that can be used to deliver them. The report shall be submitted not later than December 31, 1996, and shall include the following:

(1) An assessment of how United States theater missile defenses contribute to United States efforts to prevent proliferation, including an evaluation of the specific effect United States theater missile defense systems can have on dissuading other states from acquiring ballistic missiles.

(2) An assessment of how United States national missile defenses contribute to United States efforts to prevent proliferation.

(3) An assessment of the effect of the lack of national missile defenses on the desire of other states to acquire ballistic missiles and an evaluation of the types of missiles other states might seek to acquire as a result.

(4) A detailed review of the linkages between missile defenses (both theater and national) and each of the categories of counterproliferation activities identified by the Secretary of Defense as part of the Defense Counterproliferation Initiative announced by the Secretary in December 1993.

(5) A description of how theater and national ballistic missile defenses can augment the effectiveness of other counterproliferation tools.

**SEC. 244. REVISION TO ANNUAL REPORT ON BALLISTIC MISSILE DEFENSE PROGRAM.**

Section 224(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2431 note) is amended—

(1) by striking out paragraphs (3), (4), and (10);

(2) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(3) by redesignating paragraph (7) as paragraph (5) and in that paragraph by striking out “of the Soviet Union” and “for the Soviet Union”;

(4) by redesignating paragraph (8) as paragraph (6); and

(5) by redesignating paragraph (9) as paragraph (7) and in that paragraph—

(A) by striking out “of the Soviet Union” in subparagraph (A);

(B) by striking out subparagraphs (C) through (F); and

(C) by redesignating subparagraph (G) as subparagraph (C).

**SEC. 245. REPORT ON AIR FORCE NATIONAL MISSILE DEFENSE PLAN.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National

Security of the House of Representatives a report on the following matters regarding the National Missile Defense Plan of the Air Force:

- (1) The cost and operational effectiveness of a system that could be developed pursuant to that plan.
- (2) The arms control implications of such a system.
- (3) The growth potential of such a system to meet future threats.
- (4) The recommendations of the Secretary for improvements to that plan.

**SEC. 246. CAPABILITY OF NATIONAL MISSILE DEFENSE SYSTEM.**

The Secretary of Defense shall ensure that any National Missile Defense system deployed by the United States is capable of defeating the threat posed by the Taepo Dong II missile of North Korea.

**SEC. 247. ACTIONS TO LIMIT ADVERSE EFFECTS ON PRIVATE SECTOR EMPLOYMENT OF ESTABLISHMENT OF NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE.**

The Secretary of Defense shall take such actions as are necessary in connection with the establishment of the National Missile Defense Joint Program Office within the Ballistic Missile Defense Organization to ensure that the establishment of that office does not make it necessary for a Federal Government contractor to reduce significantly the number of persons employed by that contractor for supporting the national missile defense development program at any particular location outside the National Capital Region (as defined in section 2674(f)(2) of title 10, United States Code).

**SEC. 248. ABM TREATY DEFINED.**

For purposes of this subtitle, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

## Subtitle D—Other Matters

**SEC. 261. MAINTENANCE AND REPAIR AT AIR FORCE INSTALLATIONS.**

(a) **ALLOCATION OF FUNDS.**—The Secretary of the Air Force shall allocate funds authorized to be appropriated by this title and title III of this Act for maintenance and repair of real property at military installations of the Department of the Air Force without regard to whether the installation is supported with funds authorized by this title or title III of this Act.

(b) **MIXING OF FUNDS PROHIBITED ON INDIVIDUAL PROJECTS.**—The Secretary of the Air Force may not combine funds authorized to be appropriated by this title and funds authorized to be appropriated by title III for an individual project for maintenance and repair of real property at a military installation of the Department of the Air Force.

**SEC. 262. REPORT RELATING TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.**

Not later than March 30, 1997, the Comptroller General shall submit to Congress and to the Secretary of Defense a report setting forth the following with respect to the Small Business Innovation Research Program (as defined by section 2491(11) of title 10, United States Code):

(1) An assessment of whether there has been a demonstrable reduction in the quality of research performed under funding agreements awarded by the Department of Defense under the program since fiscal year 1995.

(2) An assessment of the degree to which competitive procedures are being followed throughout the military departments and defense agencies in awarding funding agreements under the program.

(3) An assessment of the degree to which technologies developed through the program are or are likely to be used in military projects and programs.

**SEC. 263. AMENDMENT TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.**

Section 802(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1701; 10 U.S.C. 2358 note) is amended by striking out "fiscal years before the fiscal year in which the institution submits a proposal" and inserting in lieu thereof "most recent fiscal years for which complete statistics are available when proposals are requested".

**SEC. 264. AMENDMENTS TO DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.**

Section 257(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2705; 10 U.S.C. 2358 note) is amended—

(1) in paragraph (1)—

(A) by striking out "Director of the National Science Foundation" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology"; and

(B) by striking out "and shall notify the Director of Defense Research and Engineering of the States so designated"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking out "Director of the National Science Foundation" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology"; and

(ii) by striking out "as determined by the Director" and inserting in lieu thereof "as determined by the Under Secretary";

(B) in subparagraph (A), by striking out "(to be determined in consultation with the Secretary of Defense);" and inserting in lieu thereof "; and";

(C) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(D) by striking out subparagraph (C).

**SEC. 265. ELIMINATION OF REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR THE AWARD OF CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.**

Section 2361 of title 10, United States Code, is amended by striking out subsection (c).

**SEC. 266. PILOT PROGRAM FOR TRANSFER OF DEFENSE TECHNOLOGY INFORMATION TO PRIVATE INDUSTRY.**

(a) **PROGRAM REQUIRED.**—The Secretary of Defense shall carry out a pilot program to demonstrate online transfers of information on defense technologies to businesses in the private sector through an interactive data network involving Small Business Development Centers of institutions of higher education.

Contracts.

(b) **COMPUTERIZED DATA BASE OF DEFENSE TECHNOLOGIES.**—(1) Under the pilot program, the Secretary shall enter into an agreement with the head of an eligible institution of higher education that provides for such institution—

(A) to develop and maintain a computerized data base of information on defense technologies;

(B) to make such information available online to—

(i) businesses; and

(ii) other institutions of higher education entering into partnerships with the Secretary under subsection (c).

(2) The online accessibility may be established by means of any of, or any combination of, the following:

(A) Digital teleconferencing.

(B) International Signal Digital Network lines.

(C) Direct modem hookup.

Contracts.

(c) **PARTNERSHIP NETWORK.**—Under the pilot program, the Secretary shall seek to enter into agreements with the heads of several eligible institutions of higher education having strong business education programs to provide for the institutions of higher education entering into such agreements—

(1) to establish interactive computer links with the data base developed and maintained under subsection (b); and

(2) to assist the Secretary in making information on defense technologies available online to the broadest practicable number, types, and sizes of businesses.

(d) **ELIGIBLE INSTITUTIONS.**—For the purposes of this section, an institution of higher education is eligible to enter into an agreement under subsection (b) or (c) if the institution has a Small Business Development Center.

(e) **DEFENSE TECHNOLOGIES COVERED.**—(1) The Secretary shall designate the technologies to be covered by the pilot program from among the existing and experimental technologies that the Secretary determines—

(A) are useful in meeting Department of Defense needs; and

(B) should be made available under the pilot program to facilitate the satisfaction of such needs by private sector sources.

(2) Technologies covered by the program should include technologies useful for defense purposes that can also be used for nondefense purposes (with or without modification).

(f) **DEFINITIONS.**—In this section:

(1) The term “Small Business Development Center” means a small business development center established pursuant to section 21 of the Small Business Act (15 U.S.C. 648).

(2) The term “defense technology” means a technology designated by the Secretary of Defense under subsection (d).

(3) The term “partnership” means an agreement entered into under subsection (c).

(g) **TERMINATION OF PILOT PROGRAM.**—The pilot program shall terminate one year after the Secretary enters into an agreement under subsection (b).

(h) **AUTHORIZATION OF APPROPRIATIONS.**—Of the amount authorized to be appropriated under section 201(4) for university research initiatives, \$3,000,000 is available for the pilot program.

**SEC. 267. RESEARCH UNDER TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.**

(a) **CONDITIONS FOR USE OF AUTHORITY.**—Subsection (e) of section 2371 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting “and” after the semicolon at the end of subparagraph (A), as so redesignated;

(3) by striking out “; and” at the end of subparagraph (B), as so redesignated, and inserting in lieu thereof a period;

(4) by inserting “(1)” after “(e) CONDITIONS.—”; and

(5) by striking out paragraph (3) and inserting in lieu thereof the following:

“(2) A cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.”.

(b) **REVISED REQUIREMENT FOR ANNUAL REPORT.**—Section 2371 of such title is amended by striking out subsection (h) and inserting in lieu thereof the following:

“(h) **ANNUAL REPORT.**—(1) Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the use by the Department of Defense during such fiscal year of—

“(A) cooperative agreements authorized under section 2358 of this title that contain a clause under subsection (d); and

“(B) transactions authorized by subsection (a).

“(2) The report shall include, with respect to the cooperative agreements and other transactions covered by the report, the following:

“(A) The technology areas in which research projects were conducted under such agreements or other transactions.

“(B) The extent of the cost-sharing among Federal Government and non-Federal sources.

“(C) The extent to which the use of the cooperative agreements and other transactions—

“(i) has contributed to a broadening of the technology and industrial base available for meeting Department of Defense needs; and

“(ii) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

“(D) The total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause described in subsection (d) that was included in the cooperative agreements and other transactions, and the amount of such payments, if any, that were credited to each account established under subsection (f).”.

(c) DIVISION OF SECTION INTO DISTINCT PROVISIONS BY SUBJECT MATTER.—(1) Chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the last subsection of section 2371 (relating to cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980) the following:

**“§ 2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980”;**

(B) in section 2371a (as designated by the amendment made by subparagraph (A)), by striking out “(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—”; and

(C) in the table of sections at the beginning of such chapter, by inserting after the item relating to section 2371 the following:

“2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980.”.

(2) Section 2358(d) of such title is amended by striking out “section 2371” and inserting in lieu thereof “sections 2371 and 2371a”.

**SEC. 268. DESALTING TECHNOLOGIES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Access to scarce fresh water is likely to be a cause of future military conflicts in the Middle East and has a direct impact on stability and security in the region.

(2) The Middle East is an area of vital and strategic importance to the United States.

(3) The United States has played a military role in the Middle East, most recently in the Persian Gulf War, and may likely be called upon again to deter aggression in the region.

(4) United States troops have used desalting technologies to guarantee the availability of fresh water in past deployments in the Middle East.

(5) Adequate, efficient, and cheap access to high-quality fresh water will be vital to maintaining the readiness and sustainability of troops of both the United States and its allies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, as improved access to fresh water will be an important factor in helping prevent future conflicts in the Middle East, the United States should, in cooperation with its allies, promote and invest in technologies to reduce the costs of converting saline water into fresh water.

(c) **FUNDING FOR RESEARCH AND DEVELOPMENT.**—Of the amounts authorized to be appropriated by this title, the Secretary shall place greater emphasis on making funds available for research and development into efficient and economical processes and methods for converting saline water into fresh water.

**SEC. 269. EVALUATION OF DIGITAL VIDEO NETWORK EQUIPMENT USED IN OLYMPIC GAMES.**

(a) **EVALUATION.**—The Secretary of Defense shall evaluate the digital video network equipment used in the 1996 Olympic games to determine whether such equipment would be the most appropriate equipment for use as a test bed for the military application of commercial off-the-shelf advanced technology linking multiple continents, multiple satellites, and multiple theaters of operations by compressed digital audio and visual broadcasting technology.

(b) **REPORT.**—Not later than April 1, 1997, the Secretary of Defense shall submit to Congress a report on the results of the evaluation conducted under subsection (a).

**SEC. 270. ANNUAL JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.**

10 USC 2501  
note.

(a) **ANNUAL PLAN REQUIRED.**—On March 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for ensuring that the science and technology program of the Department of Defense supports the development of the future joint warfighting capabilities identified as priority requirements for the Armed Forces.

(b) **FIRST PLAN.**—The first plan under subsection (a) shall be submitted not later than March 1, 1997.

## **Subtitle E—National Oceanographic Partnership Program**

**SEC. 281. FINDINGS.**

10 USC 7901  
note.

Congress finds the following:

(1) The oceans and coastal areas of the United States are among the Nation's most valuable natural resources, making substantial contributions to economic growth, quality of life, and national security.

(2) Oceans drive global and regional climate. Hence, they contain information affecting agriculture, fishing, and the prediction of severe weather.

(3) Understanding of the oceans through basic and applied research is essential for using the oceans wisely and protecting their limited resources. Therefore, the United States should maintain its world leadership in oceanography as one key to its competitive future.

(4) Ocean research and education activities take place within Federal agencies, academic institutions, and industry. These entities often have similar requirements for research facilities, data, and other resources (such as oceanographic research vessels).

(5) The need exists for a formal mechanism to coordinate existing partnerships and establish new partnerships for the sharing of resources, intellectual talent, and facilities in the

ocean sciences and education, so that optimal use can be made of this most important natural resource for the well-being of all Americans.

**SEC. 282. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.**

(a) PROGRAM REQUIRED.—(1) Subtitle C of title 10, United States Code, is amended by adding after chapter 663 the following new chapter:

**“CHAPTER 665—NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM**

“Sec.

“7901. National Oceanographic Partnership Program.

“7902. National Ocean Research Leadership Council.

“7903. Ocean Research Advisory Panel.

**“§ 7901. National Oceanographic Partnership Program**

“(a) ESTABLISHMENT.—The Secretary of the Navy shall establish a program to be known as the ‘National Oceanographic Partnership Program’.

“(b) PURPOSES.—The purposes of the program are as follows:

“(1) To promote the national goals of assuring national security, advancing economic development, protecting quality of life, and strengthening science education and communication through improved knowledge of the ocean.

“(2) To coordinate and strengthen oceanographic efforts in support of those goals by—

“(A) identifying and carrying out partnerships among Federal agencies, academia, industry, and other members of the oceanographic scientific community in the areas of data, resources, education, and communication; and

“(B) reporting annually to Congress on the program.

**“§ 7902. National Ocean Research Leadership Council**

“(a) COUNCIL.—There is a National Ocean Research Leadership Council (hereinafter in this chapter referred to as the ‘Council’).

“(b) MEMBERSHIP.—The Council is composed of the following members:

“(1) The Secretary of the Navy.

“(2) The Administrator of the National Oceanic and Atmospheric Administration.

“(3) The Director of the National Science Foundation.

“(4) The Administrator of the National Aeronautics and Space Administration.

“(5) The Deputy Secretary of Energy.

“(6) The Administrator of the Environmental Protection Agency.

“(7) The Commandant of the Coast Guard.

“(8) The Director of the Geological Survey of the Department of the Interior.

“(9) The Director of the Defense Advanced Research Projects Agency.

“(10) The Director of the Minerals Management Service of the Department of the Interior.

“(11) The President of the National Academy of Sciences, the President of the National Academy of Engineering, and the President of the Institute of Medicine.



“(12) The Director of the Office of Science and Technology.

“(13) The Director of the Office of Management and Budget.

“(14) One member appointed by the chairman from among individuals who will represent the views of ocean industries.

“(15) One member appointed by the chairman from among individuals who will represent the views of State governments.

“(16) One member appointed by the chairman from among individuals who will represent the views of academia.

“(17) One member appointed by the chairman from among individuals who will represent such other views as the chairman considers appropriate.

“(c) CHAIRMAN AND VICE CHAIRMAN.—(1) Except as provided in paragraph (2), the chairman and vice chairman of the Council shall be appointed every two years by a selection committee of the Council composed of, at a minimum, the Secretary of the Navy, the Administrator of the National Oceanic and Atmospheric Administration, and the Director of the National Science Foundation. The term of office of the chairman and vice chairman shall be two years. A person who has previously served as chairman or vice chairman may be reappointed.

“(2) The first chairman of the Council shall be the Secretary of the Navy. The first vice chairman of the Council shall be the Administrator of the National Oceanic and Atmospheric Administration.

“(d) TERM OF OFFICE.—The term of office of a member of the Council appointed under paragraph (14), (15), (16), or (17) of subsection (b) shall be two years, except that any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

“(e) RESPONSIBILITIES.—The Council shall have the following responsibilities:

“(1) To prescribe policies and procedures to implement the National Oceanographic Partnership Program.

“(2) To review, select, and identify and allocate funds for partnership projects for implementation under the program, based on the following criteria:

“(A) Whether the project addresses critical research objectives or operational goals, such as data accessibility and quality assurance, sharing of resources, education, or communication.

“(B) Whether the project has, or is designed to have, broad participation within the oceanographic community.

“(C) Whether the partners have a long-term commitment to the objectives of the project.

“(D) Whether the resources supporting the project are shared among the partners.

“(E) Whether the project has been subjected to adequate peer review.

“(3) To assess whether there is a need for a facility (or facilities) to provide national centralization of oceanographic data, and to establish such a facility or facilities if determined necessary. In conducting the assessment, the Council shall review, at a minimum, the following:

“(A) The need for a national oceanographic data center.

“(B) The need for a national coastal data center.

“(C) Accessibility by potential users of such centers.

“(D) Preexisting facilities and expertise.

“(f) ANNUAL REPORT.—Not later than March 1 of each year, the Council shall submit to Congress a report on the National Oceanographic Partnership Program. The report shall contain the following:

“(1) A description of activities of the program carried out during the fiscal year before the fiscal year in which the report is prepared, together with a list of the members of the Ocean Research Advisory Panel and any working groups in existence during the fiscal year covered.

“(2) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.

“(3) A summary of projects continued from the fiscal year before the fiscal year in which the report is prepared and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year.

“(4) A description of the involvement of the program with Federal interagency coordinating entities.

“(5) The amounts requested, in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the report is prepared, for the programs, projects, and activities of the program and the estimated expenditures under such programs, projects, and activities during such following fiscal year.

Establishment.

“(g) PARTNERSHIP PROGRAM OFFICE.—(1) The Council shall establish a partnership program office for the National Oceanographic Partnership Program. The Council shall use competitive procedures in selecting an operator for the partnership program office.

“(2) The Council shall assign the following duties to the partnership program office:

“(A) To establish and oversee working groups to propose partnership projects to the Council and advise the Council on such projects.

“(B) To manage the process for proposing partnership projects to the Council, including managing peer review of such projects.

Reports.

“(C) To submit to the Council an annual report on the status of all partnership projects and activities of the office.

“(D) Any additional duties for the administration of the National Oceanographic Partnership Program that the Council considers appropriate.

“(3) The Council shall supervise the performance of duties by the partnership program office.

“(h) CONTRACT AND GRANT AUTHORITY.—The Council may authorize one or more of the departments or agencies represented on the Council to enter into contracts and make grants, using funds appropriated pursuant to an authorization of appropriations for the National Oceanographic Partnership Program, for the purpose of implementing the program and carrying out the responsibilities of the Council.

“(i) ESTABLISHMENT AND FORMS OF PARTNERSHIP PROJECTS.—(1) A partnership project under the National Oceanographic Partnership Program may be established by any instrument that the Council considers appropriate, including a memorandum of under-

standing, a cooperative research and development agreement, and any similar instrument.

“(2) Projects under the program may include demonstration projects.

**“§ 7903. Ocean Research Advisory Panel**

“(a) ESTABLISHMENT.—The Council shall establish an Ocean Research Advisory Panel consisting of not less than 10 and not more than 18 members appointed by the Council from among persons eminent in the fields of marine science or marine policy, or related fields, and who are representative, at a minimum, of the interests of government, academia, and industry.

“(b) RESPONSIBILITIES.—The Council shall assign to the Advisory Panel responsibilities that the Council considers appropriate.”.

(2) The table of chapters at the beginning of subtitle C of title 10, United States Code, and the table of chapters at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 663 the following:

**“665. National Oceanographic Partnership Program ..... 7901”.**

(b) INITIAL APPOINTMENTS OF COUNCIL MEMBERS.—The Secretary of the Navy shall make the appointments required by section 7902(b) of title 10, United States Code, as added by subsection (a)(1), not later than December 1, 1996.

10 USC 7902  
note.

(c) INITIAL APPOINTMENTS OF ADVISORY PANEL MEMBERS.—The National Ocean Research Leadership Council established by section 7902 of title 10, United States Code, as added by subsection (a)(1), shall make the appointments required by section 7903 of such title not later than January 1, 1997.

10 USC 7903  
note.

(d) FIRST ANNUAL REPORT OF NATIONAL OCEAN RESEARCH LEADERSHIP COUNCIL.—The first annual report required by section 7902(f) of title 10, United States Code, as added by subsection (a)(1), shall be submitted to Congress not later than March 1, 1997. The first report shall include, in addition to the information required by such section, information about the terms of office, procedures, and responsibilities of the Ocean Research Advisory Panel established by the Council.

10 USC 7902  
note.

(e) AUTHORIZATION.—(1) Of the amount authorized to be appropriated to the Department of the Navy by section 201(2), \$13,000,000 shall be available for the National Oceanographic Partnership Program established pursuant to section 7901 of title 10, United States Code, as added by subsection (a)(1).

(2) Of the amount authorized to be appropriated to the Department of the Navy by section 301(2), \$7,500,000 shall be available for such program.

(f) FUNDING FOR PROGRAM OFFICE.—Of the amount appropriated for the National Oceanographic Partnership Program for fiscal year 1997, at least \$500,000, or 3 percent of the amount appropriated, whichever is greater, shall be available for operations of the partnership program office established pursuant to section 7902(g) of title 10, United States Code, as added by subsection (a)(1), for such fiscal year.

## TITLE III—OPERATION AND MAINTENANCE

### Subtitle A—Authorization of Appropriations

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Armed Forces Retirement Home.
- Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
- Sec. 305. Civil Air Patrol Corporation.
- Sec. 306. Availability of additional funds for antiterrorism activities.
- Sec. 307. Nonlethal weapons capabilities.
- Sec. 308. SR-71 contingency reconnaissance force.

### Subtitle B—Depot-Level Activities

- Sec. 311. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.
- Sec. 312. Test programs for modernization-through-spares.

### Subtitle C—Environmental Provisions

- Sec. 321. Defense contractors covered by requirement for reports on contractor reimbursement costs for response actions.
- Sec. 322. Establishment of separate environmental restoration accounts for each military department.
- Sec. 323. Payment of stipulated penalties assessed under CERCLA.
- Sec. 324. Shipboard solid waste control.
- Sec. 325. Authority to develop and implement land use plans for Defense Environmental Restoration program.
- Sec. 326. Pilot program to test alternative technology for limiting air emissions during shipyard blasting and coating operations.
- Sec. 327. Agreements for services of other agencies in support of environmental technology certification.
- Sec. 328. Repeal of redundant notification and consultation requirements regarding remedial investigations and feasibility studies at certain installations to be closed under the base closure laws.
- Sec. 329. Authority for agreements with Indian tribes for services under environmental restoration program.
- Sec. 330. Authority to withhold listing of Federal facilities on National Priorities List.
- Sec. 331. Clarification of meaning of uncontaminated property for purposes of transfer by the United States.
- Sec. 332. Conservation and cultural activities.
- Sec. 333. Navy program to monitor ecological effects of organotin.
- Sec. 334. Authority to transfer contaminated Federal property before completion of required response actions.

### Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

- Sec. 341. Contracts with other agencies to provide or obtain goods and services to promote efficient operation and management of exchanges and morale, welfare, and recreation activities.
- Sec. 342. Noncompetitive procurement of brand-name commercial items for resale in commissary stores.
- Sec. 343. Prohibition of sale or rental of sexually explicit material.

### Subtitle E—Performance of Functions by Private-Sector Sources

- Sec. 351. Extension of requirement for competitive procurement of printing and duplication services.
- Sec. 352. Reporting requirements under demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies.

### Subtitle F—Other Matters

- Sec. 361. Authority for use of appropriated funds for recruiting functions.
- Sec. 362. Training of members of the uniformed services at non-Government facilities.
- Sec. 363. Requirement for preparation of plan for improved operation of working-capital funds and effect of failure to produce an approved plan.
- Sec. 364. Increase in capital asset threshold under Defense Business Operations Fund.

- Sec. 365. Expansion of authority to donate unusable food.
- Sec. 366. Assistance to committees involved in inauguration of the President.
- Sec. 367. Department of Defense support for sporting events.
- Sec. 368. Storage of motor vehicle in lieu of transportation.
- Sec. 369. Security protections at Department of Defense facilities in National Capital Region.
- Sec. 370. Administration of midshipmen's store and other Naval Academy support activities as nonappropriated fund instrumentality.
- Sec. 371. Reimbursement under agreement for instruction of civilian students at Foreign Language Institute of the Defense Language Institute.
- Sec. 372. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 373. Renovation of building for Defense Finance and Accounting Service Center, Fort Benjamin Harrison, Indiana.
- Sec. 374. Food donation pilot program at service academies.
- Sec. 375. Authority of Air National Guard to provide certain services at Lincoln Municipal Airport, Lincoln, Nebraska.
- Sec. 376. Technical amendment regarding Impact Aid program.

## Subtitle A—Authorization of Appropriations

### SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- (1) For the Army, \$18,264,406,000.
- (2) For the Navy, \$20,387,737,000.
- (3) For the Marine Corps, \$2,421,007,000.
- (4) For the Air Force, \$17,635,335,000.
- (5) For Defense-wide activities, \$9,912,962,000.
- (6) For the Army Reserve, \$1,136,436,000.
- (7) For the Naval Reserve, \$858,927,000.
- (8) For the Marine Corps Reserve, \$113,367,000.
- (9) For the Air Force Reserve, \$1,499,553,000.
- (10) For the Army National Guard, \$2,277,477,000.
- (11) For the Air National Guard, \$2,711,173,000.
- (12) For the Defense Inspector General, \$136,501,000.
- (13) For the United States Court of Appeals for the Armed Forces, \$6,797,000.
- (14) For Environmental Restoration, Army, \$356,916,000.
- (15) For Environmental Restoration, Navy, \$302,900,000.
- (16) For Environmental Restoration, Air Force, \$414,700,000.
- (17) For Environmental Restoration, Defense-wide, \$258,500,000.
- (18) For Overseas Humanitarian, Disaster, and Civic Aid programs, \$54,544,000.
- (19) For Drug Interdiction and Counter-drug Activities, Defense-wide, \$796,524,000.
- (20) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, \$10,000,000.
- (21) For Medical Programs, Defense, \$9,833,288,000.
- (22) For Cooperative Threat Reduction programs, \$364,900,000.
- (23) For Domestic Emergency Assistance programs, \$97,000,000.
- (24) For OPLAN 34A-35 P.O.W. payments, \$20,000,000.

**SEC. 302. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

- (1) For the Defense Business Operations Fund, \$947,900,000.
- (2) For the National Defense Sealift Fund, \$1,118,002,000.

**SEC. 303. ARMED FORCES RETIREMENT HOME.**

There is hereby authorized to be appropriated for fiscal year 1997 from the Armed Forces Retirement Home Trust Fund the sum of \$57,300,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

**SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.**

(a) **TRANSFER AUTHORITY.**—To the extent provided in appropriations Acts, not more than \$150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1997 in amounts as follows:

- (1) For the Army, \$50,000,000.
- (2) For the Navy, \$50,000,000.
- (3) For the Air Force, \$50,000,000.

(b) **TREATMENT OF TRANSFERS.**—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) **RELATIONSHIP TO OTHER TRANSFER AUTHORITY.**—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

**SEC. 305. CIVIL AIR PATROL CORPORATION.**

(a) **FUNDING.**—Of the amount authorized to be appropriated pursuant to section 301 for operation and maintenance, \$14,526,000 shall be available for the Civil Air Patrol Corporation.

(b) **AMOUNT FOR CERTAIN OPERATIONS.**—Of the amount made available to the Civil Air Patrol Corporation pursuant to subsection (a), not less than 25 percent of such amount shall be reserved to cover the costs of search and rescue missions and disaster relief missions.

**SEC. 306. AVAILABILITY OF ADDITIONAL FUNDS FOR ANTITERRORISM ACTIVITIES.**

Of the amount authorized to be appropriated pursuant to section 301 for operation and maintenance, \$14,000,000 shall be available to the Secretary of Defense for activities designed to meet the antiterrorism responsibilities of the Department of Defense, including activities related to intelligence support, physical security measures, and education and training regarding antiterrorism. The amount made available by this section is in addition to amounts otherwise made available by this Act for antiterrorism activities.

**SEC. 307. NONLETHAL WEAPONS CAPABILITIES.**

Of the amount authorized to be appropriated pursuant to section 301, \$5,000,000 shall be available for the immediate procurement of nonlethal weapons capabilities to meet existing deficiencies in inventories of such capabilities, of which—

- (1) \$2,000,000 shall be available for the Army; and
- (2) \$3,000,000 shall be available for the Marine Corps.

**SEC. 308. SR-71 CONTINGENCY RECONNAISSANCE FORCE.**

Of the funds authorized to be appropriated by section 301(4), \$30,000,000 is authorized to be made available for the SR-71 contingency reconnaissance force.

## **Subtitle B—Depot-Level Activities**

**SEC. 311. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.**

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1684) is amended by striking out “September 30, 1996” and inserting in lieu thereof “September 30, 1997”.

**SEC. 312. TEST PROGRAMS FOR MODERNIZATION-THROUGH-SPARES.** Reports.

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the steps that the Secretary has taken to ensure that each program included in the modernization-through-spares program of the Army is conducted in accordance with—

- (1) the competition requirements in section 2304 of title 10, United States Code;
- (2) the core logistics requirements in section 2464 of such title;
- (3) the public-private competition requirements in section 2469 of such title; and
- (4) requirements relating to contract bundling and spare parts breakout in subsections (a) and (l) of section 15 of the Small Business Act (15 U.S.C. 644) and regulations implementing such subsections in the Defense Federal Acquisition Regulation Supplement.

## **Subtitle C—Environmental Provisions**

**SEC. 321. DEFENSE CONTRACTORS COVERED BY REQUIREMENT FOR REPORTS ON CONTRACTOR REIMBURSEMENT COSTS FOR RESPONSE ACTIONS.**

Section 2706(d)(1)(A) of title 10, United States Code, is amended by striking out “100” and inserting in lieu thereof “20”.

**SEC. 322. ESTABLISHMENT OF SEPARATE ENVIRONMENTAL RESTORATION ACCOUNTS FOR EACH MILITARY DEPARTMENT.**

(a) ESTABLISHMENT.—(1) Section 2703 of title 10, United States Code, is amended to read as follows:

**“§ 2703. Environmental restoration accounts**

“(a) ESTABLISHMENT OF ACCOUNTS.—There are hereby established in the Department of Defense the following accounts:

“(1) An account to be known as the ‘Environmental Restoration Account, Defense’.

“(2) An account to be known as the ‘Environmental Restoration Account, Army’.

“(3) An account to be known as the ‘Environmental Restoration Account, Navy’.

“(4) An account to be known as the ‘Environmental Restoration Account, Air Force’.

“(b) OBLIGATION OF AUTHORIZED AMOUNTS.—Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended.

President.

“(c) BUDGET REPORTS.—In proposing the budget for any fiscal year pursuant to section 1105 of title 31, United States Code, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

“(d) CREDIT OF AMOUNTS RECOVERED.—The following amounts shall be credited to the appropriate environmental restoration account:

“(1) Amounts recovered under CERCLA for response actions.

“(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

“(e) PAYMENTS OF FINES AND PENALTIES.—None of the funds appropriated to the Environmental Restoration Account, Defense, for fiscal years 1995 through 1999, or to any environmental restoration account of a military department for fiscal years 1997 through 1999, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law.”.

(2) The table of sections at the beginning of chapter 160 of title 10, United States Code, is amended by striking out the item relating to section 2703 and inserting in lieu thereof the following new item:

“2703. Environmental restoration accounts.”.

10 USC 2703  
note.

(b) REFERENCES.—Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).



(c) CONFORMING AMENDMENT.—Section 2705(g)(1) of title 10, United States Code, is amended by striking out “the Defense Environmental Restoration Account established” and inserting in lieu thereof “the environmental restoration account concerned”.

(d) TREATMENT OF UNOBLIGATED BALANCES.—Any unobligated balances that remain in the Defense Environmental Restoration Account under section 2703(a) of title 10, United States Code, as of the effective date specified in subsection (e) shall be transferred on such date to the Environmental Restoration Account, Defense, established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

10 USC 2703  
note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

10 USC 2703  
note.

- (1) October 1, 1996; or
- (2) the date of the enactment of this Act.

### SEC. 323. PAYMENTS OF STIPULATED PENALTIES ASSESSED UNDER CERCLA.

(a) AUTHORITY.—The Secretary of Defense may pay the following:

(1) Stipulated civil penalties, to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986, in amounts, and using funds, as follows:

(A) Using funds authorized to be appropriated to the Environmental Restoration Account, Army, established under section 2703(a)(2) of title 10, United States Code (as amended by section 322 of this Act)—

(i) not more than \$34,000 assessed against Fort Riley, Kansas, under CERCLA; and

(ii) not more than \$37,500 assessed against Lake City Army Ammunition Plant, Missouri, under CERCLA.

(B) Using funds authorized to be appropriated to the Environmental Restoration Account, Navy, established under section 2703(a)(3) of that title, as so amended, not more than \$30,000 assessed against the Naval Education and Training Center, Newport, Rhode Island, under CERCLA.

(C) Using funds authorized to be appropriated to the Environmental Restoration Account, Air Force, established under section 2703(a)(4) of that title, as so amended—

(i) not more than \$55,000 assessed against the Massachusetts Military Reservation, Massachusetts, under CERCLA; and

(ii) not more than \$10,000 assessed against F.E. Warren Air Force Base, Wyoming, under CERCLA.

(2) Using funds authorized to be appropriated to the Environmental Restoration Account, Air Force, established under section 2703(a)(4) of that title, as so amended, not more than \$500,000 to carry out one environmental restoration project, as part of a negotiated agreement in lieu of stipulated penalties assessed under CERCLA against the Massachusetts Military Reservation, Massachusetts.

(b) CERCLA DEFINED.—In this section, the term “CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

**SEC. 324. SHIPBOARD SOLID WASTE CONTROL.**

(a) IN GENERAL.—Section 3(c) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(c)) is amended—

(1) in paragraph (1), by striking out “Not later than” and inserting in lieu thereof “Except as provided in paragraphs (2) and (3), not later than”; and

(2) by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

“(2)(A) Subject to subparagraph (B), any ship described in subparagraph (C) may discharge, without regard to the special area requirements of Regulation 5 of Annex V to the Convention, the following non-plastic, non-floating garbage:

“(i) A slurry of seawater, paper, cardboard, or food waste that is capable of passing through a screen with openings no larger than 12 millimeters in diameter.

“(ii) Metal and glass that have been shredded and bagged so as to ensure negative buoyancy.

“(B)(i) Garbage described in subparagraph (A)(i) may not be discharged within 3 nautical miles of land.

“(ii) Garbage described in subparagraph (A)(ii) may not be discharged within 12 nautical miles of land.

“(C) This paragraph applies to any ship that is owned or operated by the Department of the Navy that, as determined by the Secretary of the Navy—

“(i) has unique military design, construction, manning, or operating requirements; and

“(ii) cannot fully comply with the special area requirements of Regulation 5 of Annex V to the Convention because compliance is not technologically feasible or would impair the operations or operational capability of the ship.

“(3)(A) Not later than December 31, 2000, the Secretary of the Navy shall prescribe and publish in the Federal Register standards to ensure that each ship described in subparagraph (B) is, to the maximum extent practicable without impairing the operations or operational capabilities of the ship, operated in a manner that is consistent with the special area requirements of Regulation 5 of Annex V to the Convention.

“(B) Subparagraph (A) applies to surface ships that are owned or operated by the Department of the Navy that the Secretary plans to decommission during the period beginning on January 1, 2001, and ending on December 31, 2005.

“(C) At the same time that the Secretary publishes standards under subparagraph (A), the Secretary shall publish in the Federal Register a list of the ships covered by subparagraph (B).”.

(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that it should be an objective of the Navy to achieve full compliance with Annex V to the Convention as part of the Navy's development of ships that are environmentally sound.

(2) In this subsection, the terms “Convention” and “ship” have the meanings given such terms in section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

(c) REPORT ON COMPLIANCE WITH ANNEX V TO THE CONVENTION.—The Secretary of Defense shall include in each report on environmental compliance activities submitted to Congress under section 2706(b) of title 10, United States Code, the following information:

Applicability.

Regulations.  
Federal Register,  
publication.

Applicability.  
Effective date.  
Termination  
date.

Federal Register,  
publication.

10 USC 2706  
note.

(1) A list of the ship types, if any, for which the Secretary of the Navy has made the determination referred to in paragraph (2)(C) of section 3(c) of the Act to Prevent Pollution from Ships, as amended by subsection (a)(2) of this section.

(2) A list of ship types which the Secretary of the Navy has determined can comply with Regulation 5 of Annex V to the Convention.

(3) A summary of the progress made by the Navy in implementing the requirements of paragraphs (2) and (3) of such section 3(c), as so amended.

(4) A description of any emerging technologies offering the potential to achieve full compliance with Regulation 5 of Annex V to the Convention.

(5) The amount and nature of the discharges in special areas, not otherwise authorized under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), during the preceding year from ships referred to in section 3(b)(1)(A) of such Act owned or operated by the Department of the Navy.

(d) PUBLICATION REGARDING SPECIAL AREA DISCHARGES.—Subparagraph (A) of section 3(e)(4) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(e)(4)) is amended to read as follows:

“(A) Each year, the amount and nature of the discharges in special areas, not otherwise authorized under this Act, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.”.

**SEC. 325. AUTHORITY TO DEVELOP AND IMPLEMENT LAND USE PLANS FOR DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.**

10 USC 2701  
note.

(a) **AUTHORITY.**—The Secretary of Defense may, to the extent possible and practical, develop and implement, as part of the Defense Environmental Restoration Program provided for in chapter 160 of title 10, United States Code, a land use plan for any defense site selected by the Secretary under subsection (b).

(b) **SELECTION OF SITES.**—The Secretary may select up to 10 defense sites, from among sites where the Secretary is planning or implementing environmental restoration activities, for which land use plans may be developed under this section.

(c) **REQUIREMENT TO CONSULT WITH REVIEW COMMITTEE OR ADVISORY BOARD.**—In developing a land use plan under this section, the Secretary shall consult with a technical review committee established pursuant to section 2705(c) of title 10, United States Code, a restoration advisory board established pursuant to section 2705(d) of such title, a local land use redevelopment authority, or another appropriate State agency.

(d) **50-YEAR PLANNING PERIOD.**—A land use plan developed under this section shall cover a period of at least 50 years.

(e) **IMPLEMENTATION.**—For each defense site for which the Secretary develops a land use plan under this section, the Secretary shall take into account the land use plan in selecting and implementing, in accordance with applicable law, environmental restoration activities at the site.

(f) **DEADLINES.**—For each defense site for which the Secretary intends to develop a land use plan under this section, the Secretary shall develop a draft land use plan by October 1, 1997, and a final land use plan by March 15, 1998.

(g) **DEFINITION OF DEFENSE SITE.**—For purposes of this section, the term “defense site” means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft under the jurisdiction of the Department of Defense, or (B) any site or area under the jurisdiction of the Department of Defense where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

(h) **REPORT.**—In the annual report required under section 2706(a) of title 10, United States Code, the Secretary shall include information on the land use plans developed under this section and the effect such plans have had on environmental restoration activities at the defense sites where they have been implemented. The annual report submitted in 1999 shall include recommendations on whether such land use plans should be developed and implemented throughout the Department of Defense.

(i) **SAVINGS PROVISIONS.**—(1) Nothing in this section, or in a land use plan developed under this section with respect to a defense site, shall be construed as requiring any modification to a land use plan that was developed before the date of the enactment of this Act.

(2) Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

**SEC. 326. PILOT PROGRAM TO TEST ALTERNATIVE TECHNOLOGY FOR LIMITING AIR EMISSIONS DURING SHIPYARD BLASTING AND COATING OPERATIONS.**

(a) **DETERMINATION BY SECRETARY OF THE NAVY.**—(1) The Secretary of the Navy shall make a determination whether the alternative technology described in paragraph (2) has the clear potential for significant benefit to the Navy. The Secretary shall submit to Congress a notification in writing of the determination not later than 60 days after the date of the enactment of this Act.

Notification.

(2) The technology referred to in paragraph (1) is an alternative technology designed to capture and destroy or remove particulate emissions and volatile air pollutants that occur during abrasive blasting and coating operations at naval shipyards.

(b) **PILOT PROGRAM.**—If the determination made under subsection (a)(1) is in the affirmative, the Secretary shall establish a pilot program to test the alternative technology. In conducting the test, the Secretary shall seek to demonstrate whether the technology is valid, cost effective, and in compliance with environmental laws and regulations.

(c) **REPORT.**—Upon completion of the test conducted under the pilot program, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth in detail the results of the test. The report shall include

recommendations on whether the alternative technology merits implementation at naval shipyards and such other recommendations as the Secretary considers appropriate.

**SEC. 327. AGREEMENTS FOR SERVICES OF OTHER AGENCIES IN SUPPORT OF ENVIRONMENTAL TECHNOLOGY CERTIFICATION.**

10 USC 2702  
note.

(a) **AUTHORITY.**—Subject to subsection (b), the Secretary of Defense may enter into a cooperative agreement with an agency of a State or local government to obtain assistance in certifying environmental technologies.

(b) **LIMITATIONS.**—The Secretary of Defense may enter into a cooperative agreement with respect to an environmental technology under subsection (a) only if the Secretary determines—

(1) that the technology has clear potential to be of significant value to the Department of Defense in carrying out its environmental restoration activities; and

(2) that there is no reasonably available market in the private sector for the technology without a certification by the Department of Defense, the Environmental Protection Agency, or a State environmental agency.

(c) **TYPES OF ASSISTANCE.**—The types of assistance that may be obtained under subsection (a) include the following:

(1) Data collection and analysis.

(2) Technical assistance in conducting a demonstration of an environmental technology, including the implementation of quality assurance and quality control programs.

(d) **REPORT.**—In the annual report required under section 2706(a) of title 10, United States Code, the Secretary of Defense shall include the following information with respect to cooperative agreements entered into under this section:

(1) The number of such agreements.

(2) The number of States in which such agreements have been entered into.

(3) A description of the nature of the technology involved in each such agreement.

(4) The amount of funds obligated or expended by the Department of Defense for each such agreement during the year covered by the report.

(e) **TERMINATION OF AUTHORITY.**—The authority provided under subsection (a) shall terminate five years after the date of the enactment of this Act.

**SEC. 328. REPEAL OF REDUNDANT NOTIFICATION AND CONSULTATION REQUIREMENTS REGARDING REMEDIAL INVESTIGATIONS AND FEASIBILITY STUDIES AT CERTAIN INSTALLATIONS TO BE CLOSED UNDER THE BASE CLOSURE LAWS.**

Section 334 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1340; 10 U.S.C. 2687 note) is repealed.

**SEC. 329. AUTHORITY FOR AGREEMENTS WITH INDIAN TRIBES FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.**

Section 2701(d) of title 10, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out “, or with any State or local government agency,” and inserting

in lieu thereof “, with any State or local government agency, or with any Indian tribe,”; and

(2) by adding at the end the following:

“(3) DEFINITION.—In this subsection, the term ‘Indian tribe’ has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).”.

**SEC. 330. AUTHORITY TO WITHHOLD LISTING OF FEDERAL FACILITIES ON NATIONAL PRIORITIES LIST.**

Section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking out “Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the Administrator” and inserting in lieu thereof the following:

“(1) IN GENERAL.—The Administrator”;

(3) by moving the remainder of the text of paragraph (1), as designated by paragraph (2) of this section (including subparagraphs (A) and (B), as redesignated by paragraph (1) of this section) 2 ems to the right; and

(4) by striking out “Such criteria” and all that follows through the end of the subsection and inserting in lieu thereof the following:

“(2) APPLICATION OF CRITERIA.—

“(A) IN GENERAL.—Subject to subparagraph (B), the criteria referred to in paragraph (1) shall be applied in the same manner as the criteria are applied to facilities that are owned or operated by persons other than the United States.

“(B) RESPONSE UNDER OTHER LAW.—It shall be an appropriate factor to be taken into consideration for the purposes of section 105(a)(8)(A) that the head of the department, agency, or instrumentality that owns or operates a facility has arranged with the Administrator or appropriate State authorities to respond appropriately, under authority of a law other than this Act, to a release or threatened release of a hazardous substance.

“(3) COMPLETION.—Evaluation and listing under this subsection shall be completed in accordance with a reasonable schedule established by the Administrator.”.

**SEC. 331. CLARIFICATION OF MEANING OF UNCONTAMINATED PROPERTY FOR PURPOSES OF TRANSFER BY THE UNITED STATES.**

Section 120(h)(4)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(A)) is amended in the first sentence by striking out “stored for one year or more, known to have been released,” and inserting in lieu thereof “known to have been released”.

**SEC. 332. CONSERVATION AND CULTURAL ACTIVITIES.**

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2694. Conservation and cultural activities**

“(a) ESTABLISHMENT.—The Secretary of Defense may establish and carry out a program to conduct and manage in a coordinated manner the conservation and cultural activities described in subsection (b).

“(b) ACTIVITIES.—(1) A conservation or cultural activity eligible for the program that the Secretary establishes under subsection (a) is any activity—

“(A) that has regional or Department of Defense-wide significance and that involves more than one military department;

“(B) that is necessary to meet legal requirements or to support military operations;

“(C) that can be more effectively managed at the Department of Defense level; and

“(D) for which no executive agency has been designated responsible by the Secretary.

“(2) Such activities include the following:

“(A) The development of ecosystem-wide land management plans.

“(B) The conduct of wildlife studies to ensure the safety of military operations.

“(C) The identification and return of Native American human remains and cultural items in the possession or control of the Department of Defense, or discovered on land under the jurisdiction of the Department, to the appropriate Native American tribes.

“(D) The control of invasive species that may hinder military activities or degrade military training ranges.

“(E) The establishment of a regional curation system for artifacts found on military installations.

“(c) COOPERATIVE AGREEMENTS.—The Secretary may negotiate and enter into cooperative agreements with public and private agencies, organizations, institutions, individuals, or other entities to carry out the program established under subsection (a).

“(d) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed or interpreted as preempting any otherwise applicable Federal, State, or local law or regulation relating to the management of natural and cultural resources on military installations.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2694. Conservation and cultural activities.”.

(b) EFFECTIVE DATE.—Section 2694 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996.

10 USC 2694  
note.

**SEC. 333. NAVY PROGRAM TO MONITOR ECOLOGICAL EFFECTS OF ORGANOTIN.**

(a) MONITORING REQUIREMENT.—The Secretary of the Navy shall, in consultation with the Administrator of the Environmental Protection Agency, develop and implement a program to monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States, as described in section 7(a) of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406(a)). The program shall be designed to produce high-quality data to

Water.  
33 USC 2406  
note.

enable the Environmental Protection Agency to develop water quality criteria concerning organotin compounds.

(b) FUNDING.—The Administrator of the Environmental Protection Agency shall provide, in advance, such sums as are necessary to the Secretary of the Navy for the costs of developing and implementing the program under subsection (a).

(c) WRITTEN AGREEMENT.—The Secretary of the Navy and the Administrator of the Environmental Protection Agency shall enter into a written agreement setting forth the actions that the Secretary plans to take under subsection (a) and the funding that the Administrator agrees to provide under subsection (b). If the Secretary determines that the Administrator will not enter into such an agreement, the Secretary shall notify the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate not later than 30 days after such determination.

(d) NONIMPAIRMENT OF MISSION.—Compliance with subsection (a) shall be conducted in such a manner so as not to impair the ability of the Department of the Navy to meet its operational requirements.

(e) REPORT.—Not later than June 1, 1997, the Secretary of the Navy shall submit to Congress a report containing the following:

(1) A description of the monitoring program developed pursuant to subsection (a).

(2) An analysis of the results of the monitoring program as of the date of the submission of the report.

(3) Information about the progress of Navy programs, referred to in section 7(c) of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406(c)), for evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

(4) An assessment, developed in consultation with the Administrator of the Environmental Protection Agency, of the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment.

(f) SENSE OF CONGRESS.—(1) It is the sense of Congress that the Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Navy, should develop, for purposes of the national pollutant discharge elimination system, a model permit for the discharge of organotin compounds at shipbuilding and ship repair facilities.

(2) For purposes of this subsection, the term “organotin” has the meaning provided in section 3 of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2402).

(g) TERMINATION.—The program required by subsection (a) shall terminate five years after the date of the enactment of this Act.

**SEC. 334. AUTHORITY TO TRANSFER CONTAMINATED FEDERAL PROPERTY BEFORE COMPLETION OF REQUIRED RESPONSE ACTIONS.**

(a) IN GENERAL.—Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended—

(1) by redesignating subparagraph (A) as clause (i) and clauses (i), (ii), and (iii) of that subparagraph as subclauses (I), (II), and (III), respectively;

Notification.



(2) by striking out "After the last day" and inserting in lieu thereof the following:

"(A) IN GENERAL.—After the last day";

(3) by redesignating subparagraph (B) as clause (ii) and clauses (i) and (ii) of that subparagraph as subclauses (I) and (II), respectively;

(4) by redesignating subparagraph (C) as clause (iii);

(5) by moving the remainder of the text of subparagraph (A), as designated by paragraph (2) of this subsection (including the clauses and subclauses redesignated by paragraphs (1), (3), and (4) of this subsection) 2 ems to the right;

(6) by striking "For purposes of subparagraph (B)(i)" and inserting the following:

"(B) COVENANT REQUIREMENTS.—For purposes of subparagraphs (A)(ii)(I) and (C)(iii)";

(7) in subparagraph (B), as designated by paragraph (5), by striking "subparagraph (B)" each place it appears and inserting "subparagraph (A)(ii)"; and

(8) by adding at the end the following:

"(C) DEFERRAL.—

"(i) IN GENERAL.—The Administrator, with the concurrence of the Governor of the State in which the facility is located (in the case of real property at a Federal facility that is listed on the National Priorities List), or the Governor of the State in which the facility is located (in the case of real property at a Federal facility not listed on the National Priorities List) may defer the requirement of subparagraph (A)(ii)(I) with respect to the property if the Administrator or the Governor, as the case may be, determines that the property is suitable for transfer, based on a finding that—

"(I) the property is suitable for transfer for the use intended by the transferee, and the intended use is consistent with protection of human health and the environment;

"(II) the deed or other agreement proposed to govern the transfer between the United States and the transferee of the property contains the assurances set forth in clause (ii);

"(III) the Federal agency requesting deferral has provided notice, by publication in a newspaper of general circulation in the vicinity of the property, of the proposed transfer and of the opportunity for the public to submit, within a period of not less than 30 days after the date of the notice, written comments on the suitability of the property for transfer; and

"(IV) the deferral and the transfer of the property will not substantially delay any necessary response action at the property.

"(ii) RESPONSE ACTION ASSURANCES.—With regard to a release or threatened release of a hazardous substance for which a Federal agency is potentially responsible under this section, the deed or other agreement proposed to govern the transfer shall contain assurances that—

“(I) provide for any necessary restrictions on the use of the property to ensure the protection of human health and the environment;

“(II) provide that there will be restrictions on use necessary to ensure that required remedial investigations, response action, and oversight activities will not be disrupted;

“(III) provide that all necessary response action will be taken and identify the schedules for investigation and completion of all necessary response action as approved by the appropriate regulatory agency; and

“(IV) provide that the Federal agency responsible for the property subject to transfer will submit a budget request to the Director of the Office of Management and Budget that adequately addresses schedules for investigation and completion of all necessary response action, subject to congressional authorizations and appropriations.

“(iii) WARRANTY.—When all response action necessary to protect human health and the environment with respect to any substance remaining on the property on the date of transfer has been taken, the United States shall execute and deliver to the transferee an appropriate document containing a warranty that all such response action has been taken, and the making of the warranty shall be considered to satisfy the requirement of subparagraph (A)(ii)(I).

“(iv) FEDERAL RESPONSIBILITY.—A deferral under this subparagraph shall not increase, diminish, or affect in any manner any rights or obligations of a Federal agency (including any rights or obligations under sections 106, 107, and 120 existing prior to transfer) with respect to a property transferred under this subparagraph.”.

(b) CONTINUED APPLICATION OF STATE LAW.—The first sentence of section 120(a)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(a)(4)) is amended by inserting “or facilities that are the subject of a deferral under subsection (h)(3)(C)” after “United States”.

## **Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities**

### **SEC. 341. CONTRACTS WITH OTHER AGENCIES TO PROVIDE OR OBTAIN GOODS AND SERVICES TO PROMOTE EFFICIENT OPERATION AND MANAGEMENT OF EXCHANGES AND MORALE, WELFARE, AND RECREATION ACTIVITIES.**

(a) CONTRACTS TO PROMOTE EFFICIENT OPERATION AND MANAGEMENT.—(1) Chapter 147 of title 10, United States Code, is amended by inserting after section 2482 the following new section:

**“§ 2482a. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services**

“An agency or instrumentality of the Department of Defense that supports the operation of the exchange system, or the operation of a morale, welfare, and recreation system, of the Department of Defense may enter into a contract or other agreement with another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the exchange system or that morale, welfare, and recreation system.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2482 the following new item:

“2482a. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.”

(b) CONFORMING AMENDMENT REGARDING COMMISSARY SYSTEM.—Section 2482(b)(1) of such title is amended by striking out “another department” and all that follows through “provide services” and inserting in lieu thereof “another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain services”.

**SEC. 342. NONCOMPETITIVE PROCUREMENT OF BRAND-NAME COMMERCIAL ITEMS FOR RESALE IN COMMISSARY STORES.**

(a) CLARIFICATION OF EXCEPTION TO COMPETITIVE PROCUREMENT.—Section 2486 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) The Secretary of Defense may not use the exception provided in section 2304(c)(5) of this title regarding the procurement of a brand-name commercial item for resale in commissary stores unless the commercial item is regularly sold outside of commissary stores under the same brand name as the name by which the commercial item will be sold in commissary stores.”

(b) EFFECT ON EXISTING CONTRACTS OR OTHER AGREEMENTS.—Section 2486(e) of title 10, United States Code, as added by subsection (a), shall not affect the terms, conditions, or duration of any contract or other agreement entered into by the Secretary of Defense before the date of the enactment of this Act for the procurement of commercial items for resale in commissary stores.

10 USC 2486  
note.

**SEC. 343. PROHIBITION OF SALE OR RENTAL OF SEXUALLY EXPLICIT MATERIAL.**

(a) IN GENERAL.—(1) Chapter 147 of title 10, United States Code, is amended by inserting after section 2489 the following new section:

**“§ 2489a. Sale or rental of sexually explicit material prohibited**

“(a) PROHIBITION OF SALE OR RENTAL.—The Secretary of Defense may not permit the sale or rental of sexually explicit material on property under the jurisdiction of the Department of Defense.

“(b) PROHIBITION OF OFFICIALLY PROVIDED SEXUALLY EXPLICIT MATERIAL.—A member of the armed forces or a civilian officer or employee of the Department of Defense acting in an official capacity may not provide for sale, remuneration, or rental sexually explicit material to another person.

“(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘sexually explicit material’ means an audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium, the dominant theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.

“(2) The term ‘property under the jurisdiction of the Department of Defense’ includes commissaries, all facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps exchanges, and ships’ stores.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2489 the following new item:

“2489a. Sale or rental of sexually explicit material prohibited.”.

10 USC 2489a  
note.

(b) EFFECTIVE DATE.—Subsection (a) of section 2489a of title 10, United States Code, as added by subsection (a) of this section, shall take effect 90 days after the date of the enactment of this Act.

## Subtitle E—Performance of Functions by Private-Sector Sources

### SEC. 351. EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF PRINTING AND DUPLICATION SERVICES.

(a) EXTENSION.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 266) is amended by striking out “fiscal year 1996” and inserting in lieu thereof “fiscal years 1996 and 1997”.

(b) REPORTING REQUIREMENTS.—Such section is further amended by adding at the end the following new subsection:

“(c) REPORTING REQUIREMENTS.—(1) Not later than 90 days after the end of each fiscal year in which the requirement of subsection (a) applies, the Secretary of Defense shall submit to Congress a report—

“(A) describing the extent of the compliance of the Secretary with the requirement during that fiscal year;

“(B) specifying the total volume of printing and duplication services procured by the Department of Defense during that fiscal year—

“(i) from sources within the Department of Defense;

“(ii) from private-sector sources; and

“(iii) from other sources in the Federal Government; and

“(C) specifying the total volume of printed and duplicated material during that fiscal year covered by the exception in subsection (b).

“(2) The report required for fiscal year 1996 shall also include the plans of the Secretary for further implementation of the requirement of subsection (a) during fiscal year 1997.”.

**SEC. 352. REPORTING REQUIREMENTS UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.**

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2820) is amended by striking out “, 1996” and inserting in lieu thereof “of each of the years 1997 and 1998”.

## **Subtitle F—Other Matters**

**SEC. 361. AUTHORITY FOR USE OF APPROPRIATED FUNDS FOR RECRUITING FUNCTIONS.**

(a) **AUTHORITY.**—Chapter 31 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 520c. Recruiting functions: use of funds**

“(a) **PROVISION OF MEALS AND REFRESHMENTS.**—Under regulations prescribed by the Secretary concerned, funds appropriated to the Department of Defense for recruitment of military personnel may be expended for small meals and refreshments during recruiting functions for the following persons:

Regulations.

“(1) Persons who have enlisted under the Delayed Entry Program authorized by section 513 of this title.

“(2) Persons who are objects of armed forces recruiting efforts.

“(3) Persons whose assistance in recruiting efforts of the military departments is determined to be influential by the Secretary concerned.

“(4) Members of the armed forces and Federal employees when attending recruiting events in accordance with a requirement to do so.

“(5) Other persons whose presence at recruiting efforts will contribute to recruiting efforts.

“(b) **ANNUAL REPORT.**—Not later than February 1 of each of the years 1998 through 2002, the Secretary of Defense shall submit to Congress a report on the extent to which the authority under subsection (a) was exercised during the fiscal year ending in the preceding year.

“(c) **TERMINATION OF AUTHORITY.**—The authority in subsection (a) may not be exercised after September 30, 2001.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“520c. Recruiting functions: use of funds.”.

**SEC. 362. TRAINING OF MEMBERS OF THE UNIFORMED SERVICES AT NON-GOVERNMENT FACILITIES.**

(a) **AUTHORITY TO ENTER INTO AGREEMENTS FOR TRAINING AT NON-GOVERNMENT FACILITIES.**—(1) Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2013. Training at non-Government facilities**

“(a) **AUTHORITY TO ENTER INTO AGREEMENTS.**—(1) The Secretary concerned, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), may make agreements or other arrangements for the training of members of the uniformed services under the jurisdiction of that Secretary by, in, or through non-Government facilities.

“(2) In this section, the term ‘non-Government facility’ means any of the following:

“(A) The government of a State or of a territory or possession of the United States, including the Commonwealth of Puerto Rico, an interstate governmental organization, and a unit, subdivision, or instrumentality of any of the foregoing.

“(B) A foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this section.

“(C) A medical, scientific, technical, educational, research, or professional institution, foundation, or organization.

“(D) A business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization.

“(E) Individuals other than civilian or military personnel of the Government.

“(F) The services and property of any of the foregoing providing the training.

“(b) **EXPENSES.**—The Secretary concerned, from appropriations or other funds available to the Secretary, may—

“(1) pay all or a part of the pay of a member of a uniformed service who is selected and assigned for training under this section, for the period of training; and

“(2) pay, or reimburse the member of a uniformed service for, all or a part of the necessary expenses of the training (without regard to subsections (a) and (b) of section 3324 of title 31), including among those expenses the necessary costs of the following:

“(A) Travel and per diem instead of subsistence under sections 404 and 405 of title 37 and the Joint Travel Regulations for the Uniformed Services.

“(B) Transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under sections 406 and 409 of title 37 and the Joint Travel Regulations for the Uniformed Services when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training.

“(C) Tuition and matriculation fees.

“(D) Library and laboratory services.

“(E) Purchase or rental of books, materials, and supplies.

“(F) Other services or facilities directly related to the training of the member.

“(c) **CERTAIN EXPENSES EXCLUDED.**—The expenses of training do not include membership fees except to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent to undergoing the training.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2013. Training at non-Government facilities.”.

(b) **EFFECTIVE DATE.**—Section 2013 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996. 10 USC 2013 note.

**SEC. 363. REQUIREMENT FOR PREPARATION OF PLAN FOR IMPROVED OPERATION OF WORKING-CAPITAL FUNDS AND EFFECT OF FAILURE TO PRODUCE AN APPROVED PLAN.** 10 USC 2216a note.

(a) **PLAN FOR IMPROVED OPERATION OF WORKING-CAPITAL FUNDS.**—Not later than September 30, 1997, the Secretary of Defense shall submit to Congress a plan to improve the management and performance of the industrial, commercial, and support type activities of the military departments or the Defense Agencies that are currently managed through the Defense Business Operations Fund.

(b) **ELEMENTS OF PLAN.**—The plan required by subsection (a) shall address the following issues:

(1) The ability of each military department or Defense Agency to set working capital requirements and set charges at its own industrial and supply activities.

(2) The desirability of separate business accounts for the management of both industrial and supply activities for each military department or Defense Agency.

(3) Liability for operation losses at industrial and supply activities.

(4) Reimbursement to the Department of Defense by each military department or Defense Agency of its fair share of the costs of legitimate common business support services (such as accounting and financial services and central logistics services) provided by the Department of Defense.

(5) The role of the Department of Defense in setting charges or imposing surcharges for activities managed by the business accounts of a military department or Defense Agency (except for the common business support cost described in paragraph (4)), and what such charges should properly reflect.

(6) The appropriate use of operating profits arising from the operations of the industrial and supply activities of a military department or Defense Agency.

(7) The ability of a military department or Defense Agency to purchase industrial and supply services from, and provide such services to, other military departments or Defense Agencies.

(8) Standardization of financial management and accounting practices employed by the business accounts of a military department or Defense Agency.

(9) Reporting requirements related to actual and projected performance of business management account activities of a military department or Defense Agency.

(c) **EFFECT OF FAILURE TO SUBMIT OR APPROVE OF PLAN.**— 10 USC 2216a.

(1) Unless, before October 1, 1999, the Secretary of Defense submits the plan required by subsection (a) and Congress enacts a provision of law described in paragraph (2) that approves of the plan as submitted or in an amended form, then section 2216a of title 10, United States Code, regarding the Defense Business Operations

Fund (as redesignated by section 1074(a)(10) of this Act), shall be repealed effective as of that date.

(2) The provision of law referred to in paragraph (1) is a provision of law that—

(A) is enacted after the submission of the plan required by subsection (a);

(B) specifically refers to the plan and this section; and

(C) specifically states that the plan required by subsection (a) is approved as submitted or with such amendments as may be contained in such law.

(d) **BASIS FOR CHARGES FOR GOODS AND SERVICES; COMPTROLLER GENERAL REVIEW.**—(1) In the development of the proposed budget for the Defense Business Operations Fund for a fiscal year, the Secretary of Defense shall ensure that accurate and realistic pricing and quantity estimates are used regarding the goods and services to be provided by working-capital funds and industrial, commercial, and support type activities managed through the Fund.

(2) The Secretary of Defense shall make available to the Comptroller General information used to establish the charges for goods and services to be provided by working-capital funds and industrial, commercial, and support type activities managed through the Fund. The Comptroller General shall conduct an annual review of the adequacy of the basis for the charges. Not later than 30 days after the date on which the Secretary submits the annual report and proposed budget for the Fund under subsection (h) of section 2216a of title 10, United States Code, as redesignated by section 1074(a)(10) of this Act, the Comptroller General shall submit to Congress a report containing the results of the review.

**SEC. 364. INCREASE IN CAPITAL ASSET THRESHOLD UNDER DEFENSE BUSINESS OPERATIONS FUND.**

Section 2216a of title 10, United States Code, as redesignated by section 1074(a)(10) of this Act, is amended in subsection (i)(1) by striking out “\$50,000” and inserting in lieu thereof “\$100,000”.

**SEC. 365. EXPANSION OF AUTHORITY TO DONATE UNUSABLE FOOD.**

(a) **AUTHORITY FOR DONATIONS FROM DEFENSE AGENCIES.**—Section 2485 of title 10, United States Code, is amended by striking out “Secretary of a military department” in subsections (a) and (b) and inserting in lieu thereof “Secretary of Defense”.

(b) **EXPANSION OF ELIGIBLE RECIPIENTS.**—Such section is further amended—

(1) in subsection (a), by striking out “authorized charitable nonprofit food banks” and inserting in lieu thereof “entities specified under subsection (d)”; and

(2) in subsection (d), by striking out “may only be made” and all that follows and inserting in lieu thereof the following: “may only be made to an entity that is one of the following:

“(1) A charitable nonprofit food bank that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

“(2) A State or local agency that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

“(3) A chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

Reports.



"(4) A not-for-profit organization that provides care for homeless veterans and is designated by the Secretary of Veterans Affairs as authorized to receive such donations."

(c) CLARIFICATION OF FOOD THAT MAY BE DONATED.—Subsection (b) of such section is further amended by inserting "rations known as humanitarian daily rations (HDRs)," after "(MREs)".

**SEC. 366. ASSISTANCE TO COMMITTEES INVOLVED IN INAUGURATION OF THE PRESIDENT.**

(a) IN GENERAL.—Section 2543 of title 10, United States Code, is amended to read as follows:

**"§ 2543. Equipment and services: Presidential inaugural ceremonies**

"(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense may, with respect to the ceremonies relating to the inauguration of a President, provide the assistance referred to in subsection (b) to—

- "(1) the Presidential Inaugural Committee; and
- "(2) the congressional Joint Inaugural Committee.

"(b) ASSISTANCE.—Assistance that may be provided under subsection (a) is the following:

- "(1) Planning and carrying out activities relating to security and safety.
- "(2) Planning and carrying out ceremonial activities.
- "(3) Loan of property.
- "(4) Any other assistance that the Secretary considers appropriate.

"(c) REIMBURSEMENT.—(1) The Presidential Inaugural Committee shall reimburse the Secretary for any costs incurred in connection with the provision to the committee of assistance referred to in subsection (b)(4).

"(2) Costs reimbursed under paragraph (1) shall be credited to the appropriations from which the costs were paid. The amount credited to an appropriation shall be proportionate to the amount of the costs charged to that appropriation.

"(d) LOANED PROPERTY.—With respect to property loaned for a presidential inauguration under subsection (b)(3), the Presidential Inaugural Committee shall—

- "(1) return that property within nine days after the date of the ceremony inaugurating the President;
- "(2) give good and sufficient bond for the return in good order and condition of that property;
- "(3) indemnify the United States for any loss of, or damage to, that property; and
- "(4) defray any expense incurred for the delivery, return, rehabilitation, replacement, or operation of that property.

"(e) DEFINITIONS.—In this section:

"(1) The term 'Presidential Inaugural Committee' means the committee referred to in subsection (b)(2) of the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721) that is appointed with respect to the inauguration of a President-elect and Vice President-elect.

"(2) The term 'congressional Joint Inaugural Committee' means the joint committee of the Senate and House of Representatives referred to in the proviso in section 9 of the Presidential Inaugural Ceremonies Act (36 U.S.C. 729) that is

appointed with respect to the inauguration of a President-elect and Vice President-elect.”

(b) CLERICAL AMENDMENT.—The item relating to section 2543 in the table of sections at the beginning of chapter 152 of such title is amended to read as follows:

“2543. Equipment and services: Presidential inaugural ceremonies.”

**SEC. 367. DEPARTMENT OF DEFENSE SUPPORT FOR SPORTING EVENTS.**

(a) AUTHORITY TO PROVIDE SUPPORT.—Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2554. Provision of support for certain sporting events**

“(a) SECURITY AND SAFETY ASSISTANCE.—At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

“(b) OTHER ASSISTANCE.—The Secretary of Defense may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only—

“(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

“(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the armed forces; and

“(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 377 of this title and other applicable provisions of law.

“(c) INAPPLICABILITY TO CERTAIN EVENTS.—Subsections (a) and (b) do not apply to the following sporting events:

“(1) Sporting events for which funds have been appropriated before the date of the enactment of this Act.

“(2) The Special Olympics.

“(3) The Paralympics.

“(d) TERMS AND CONDITIONS.—The Secretary of Defense may require such terms and conditions in connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

“(e) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

“(1) a description of the assistance provided;

“(2) the amount expended by the Department in providing the assistance;

“(3) if the assistance was provided under subsection (a), the certification of the Attorney General with respect to the assistance under that subsection; and

“(4) if the assistance was provided under subsection (b)—

“(A) an explanation why the assistance could not reasonably be met by a source other than the Department; and

“(B) the amount the Department was reimbursed under that subsection.

“(f) RELATIONSHIP TO OTHER LAWS.—Assistance provided under this section shall be subject to the provisions of sections 375 and 376 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“2554. Provision of support for certain sporting events.”.

#### **SEC. 368. STORAGE OF MOTOR VEHICLE IN LIEU OF TRANSPORTATION.**

(a) STORAGE AUTHORIZED.—(1) Section 2634 of title 10, United States Code, is amended—

(A) by redesignating subsection (b) as subsection (g);

(B) by transferring subsection (g), as so redesignated, to the end of such section; and

(C) by inserting after subsection (a) the following new subsection:

“(b)(1) In lieu of transportation authorized by this section, if a member is ordered to make a change of permanent station to a foreign country and the laws, regulations, or other restrictions imposed by the foreign country or the United States preclude entry of a motor vehicle described in subsection (a) into that country, or would require extensive modification of the vehicle as a condition to entry, the member may elect to have the vehicle stored at the expense of the United States at a location approved by the Secretary concerned.

“(2) If a member is transferred or assigned in connection with a contingency operation to duty at a location other than the permanent station of the member for a period of more than 30 consecutive days, but the transfer or assignment is not considered a change of permanent station, the member may elect to have a motor vehicle described in subsection (a) stored at the expense of the United States at a location approved by the Secretary concerned.

“(3) Authorized expenses under this subsection include costs associated with the delivery of the motor vehicle for storage and removal of the vehicle for delivery to a destination approved by the Secretary concerned.”.

(2)(A) The heading of such section is amended to read as follows:

**“§ 2634. Motor vehicles: transportation or storage for members on change of permanent station or extended deployment”.**

(B) The item relating to such section in the table of sections at the beginning of chapter 157 of title 10, United States Code, is amended to read as follows:

“2634. Motor vehicles: transportation or storage for members on change of permanent station or extended deployment.”.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 406(h)(1) of title 37, United States Code, is amended to read as follows:

“(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle, which is owned or leased by the member (or a dependent of the member) and is for the personal use of a dependent of the member, to that location by means of transportation authorized under section 2634 of title 10 or authorize the storage of the motor vehicle pursuant to subsection (b) of such section.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1997.

10 USC 2634  
note.

**SEC. 369. SECURITY PROTECTIONS AT DEPARTMENT OF DEFENSE FACILITIES IN NATIONAL CAPITAL REGION.**

(a) EXPANSION OF AUTHORITY.—Subsection (b) of section 2674 of title 10, United States Code, is amended by striking out “at the Pentagon Reservation” and inserting in lieu thereof “in the National Capital Region”.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

**“§ 2674. Operation and control of Pentagon Reservation and defense facilities in National Capital Region”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

“2674. Operation and control of Pentagon Reservation and defense facilities in National Capital Region.”.

**SEC. 370. ADMINISTRATION OF MIDSHIPMEN'S STORE AND OTHER NAVAL ACADEMY SUPPORT ACTIVITIES AS NONAPPROPRIATED FUND INSTRUMENTALITY.**

(a) IN GENERAL.—Section 6971 of title 10, United States Code, is amended to read as follows:

**“§ 6971. Midshipmen's store, trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts**

“(a) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—The Superintendent of the Naval Academy shall operate the Naval Academy activities referred to in subsection (b) as a nonappropriated fund instrumentality under the jurisdiction of the Navy.

“(b) COVERED ACTIVITIES.—The nonappropriated fund instrumentality required under subsection (a) shall consist of the following Naval Academy activities:

“(1) The midshipmen's store.

“(2) The barber shop.

“(3) The cobbler shop.

“(4) The tailor shop.

“(5) The dairy.

“(6) The laundry.

“(c) NONAPPROPRIATED FUND ACCOUNTS.—The Superintendent of the Naval Academy shall administer a separate nonappropriated fund account for each of the Naval Academy activities included in the nonappropriated fund instrumentality required under subsection (a).

“(d) CREDITING OF REVENUE.—The Superintendent shall credit all revenue received from a Naval Academy activity referred to in subsection (b) to the account administered with respect to that activity under subsection (c), and amounts so credited shall be available for operating expenses of that activity.

“(e) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of the Navy.”.

(b) CIVIL SERVICE EMPLOYMENT STATUS OF EMPLOYEES OF COVERED ACTIVITIES.—Section 2105(b) of title 5, United States Code, is amended—

(1) by inserting “who is” after “An individual”; and

(2) by inserting “and whose employment in such a position began before October 1, 1996, and has been uninterrupted in such a position since that date” after “Academy dairy,”.

(c) CONFORMING REPEAL.—Section 6970 of title 10, United States Code, is repealed.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 603 of title 10, United States Code, is amended by striking out the items relating to sections 6970 and 6971 and inserting in lieu thereof the following new item:

“6971. Midshipmen’s store, trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996. 5 USC 2105 note.

**SEC. 371. REIMBURSEMENT UNDER AGREEMENT FOR INSTRUCTION OF CIVILIAN STUDENTS AT FOREIGN LANGUAGE INSTITUTE OF THE DEFENSE LANGUAGE INSTITUTE.**

(a) AUTHORITY TO ACCEPT REIMBURSEMENT IN KIND.—Section 559(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2776; 10 U.S.C. 4411 note) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(c) REIMBURSEMENT OPTIONS FOR CERTAIN INSTRUCTION.—In the case of instruction provided to students described in subsection (a)(1), the Secretary may provide the instruction on a cost-reimbursable basis, a reimbursement-in-kind basis, or a combination of both options. Regardless of the reimbursement option, the value of the reimbursement received under this subsection may not be less than the amount charged for providing language instruction to Federal employees who are not Department of Defense employees. The Secretary may not delegate the authority to accept an offer for in-kind reimbursement below the level of the Assistant Secretary of the Army.”.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a)(1), by striking out “cost-reimbursable,”; and

(2) in subsection (d), as redesignated by subsection (a)(1) of this section, by striking out “subsection (a)” the first place it appears and inserting in lieu thereof “subsection (a) or (c)”.

**SEC. 372. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 1997.—Of the amounts authorized to be appropriated in section 301(5)—

(1) \$30,000,000 shall be available for providing educational agencies assistance (as defined in subsection (d)(1)) to local educational agencies; and

(2) \$5,000,000 shall be available for making educational agencies payments (as defined in subsection (d)(2)) to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 1997, the Secretary of Defense shall—

(1) notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1997 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(2) notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1997 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under paragraphs (1) and (2) of subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term “educational agencies assistance” means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(2) The term “educational agencies payments” means payments authorized under section 386(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(3) The term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

**SEC. 373. RENOVATION OF BUILDING FOR DEFENSE FINANCE AND ACCOUNTING SERVICE CENTER, FORT BENJAMIN HARRISON, INDIANA.**

(a) TRANSFER AUTHORITY.—To pay the costs of planning, design, and renovation of Building One, Fort Benjamin Harrison, Indiana, for use as a Defense Finance and Accounting Service Center, the Secretary of Defense may transfer to the Administrator of General Services in the manner provided in subsection (b) funds available

to the Department of Defense for the Defense Finance and Accounting Service for a fiscal year for operation and maintenance.

(b) **AUTHORITY SUBJECT TO AUTHORIZATIONS AND APPROPRIATIONS.**—To the extent provided in appropriations Acts—

(1) of funds described in subsection (a) and appropriated for fiscal year 1997, \$9,000,000 may be transferred under such subsection; and

(2) of funds described in subsection (a) and appropriated for fiscal years 1998, 1999, 2000, and 2001, funds may be transferred under such subsection in such amounts as are authorized to be transferred in an Act enacted after the date of the enactment of this Act.

(c) **AUTHORITY SUBJECT TO AGREEMENT BETWEEN DEPARTMENT OF DEFENSE AND GENERAL SERVICES ADMINISTRATION.**—The transfer authority provided in subsection (a) shall not take effect until the date on which the Secretary of Defense and the Administrator of General Services enter into an agreement that provides for the Department of Defense to receive a full reimbursement for the funds transferred under such subsection. Such reimbursement may include reimbursement in the form of reduced or static rental rates for Building One.

Effective date.

#### **SEC. 374. FOOD DONATION PILOT PROGRAM AT SERVICE ACADEMIES.**

(a) **PROGRAM AUTHORIZED.**—The Secretaries of the military departments and the Secretary of Transportation may each carry out a food donation pilot program at the service academy under the jurisdiction of such Secretary.

(b) **DONATIONS AND COLLECTIONS OF FOOD AND GROCERY PRODUCTS.**—Under the pilot program, the Secretary concerned may donate to, and permit others to collect for, a nonprofit organization any food or grocery product that—

(1) is—

(A) an apparently wholesome food;

(B) an apparently fit grocery product; or

(C) a food or grocery product that is donated in accordance with section 402(e) of the National and Community Service Act of 1990 (42 U.S.C. 12672(e));

(2) is owned by the United States;

(3) is located at a service academy under the jurisdiction of such Secretary; and

(4) is excess to the requirements of the academy.

(c) **PROGRAM COMMENCEMENT.**—The Secretary concerned shall commence carrying out the pilot program, if at all, during fiscal year 1997.

(d) **APPLICABILITY OF GOOD SAMARITAN FOOD DONATION ACT.**—Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) shall apply to donations and collections of food and grocery products under the pilot program without regard to section 403 of such Act (42 U.S.C. 12673).

(e) **REPORTS.**—(1) Each Secretary that carries out a pilot program at a service academy under this section shall submit to Congress an interim report and a final report on the pilot program.

(2) The Secretary concerned shall submit the interim report not later than one year after the date on which the Secretary commences the pilot program at a service academy.

(3) The Secretary concerned shall submit the final report not later than 90 days after the Secretary completes the pilot program at a service academy.

(4) Each report shall include the following:

(A) A description of the conduct of the pilot program.

(B) A discussion of the experience under the pilot program.

(C) An evaluation of the extent to which section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) has been effective in protecting the United States and others from liabilities associated with actions taken under the pilot program.

(D) Any recommendations for legislation to facilitate donations or collections of excess food and grocery products of the United States or others for nonprofit organizations.

(f) DEFINITIONS.—For purposes of this section:

(1) The term “service academy” means each of the following:

(A) The United States Military Academy.

(B) The United States Naval Academy.

(C) The United States Air Force Academy.

(D) The United States Coast Guard Academy.

(2) The term “Secretary concerned” means the following:

(A) The Secretary of the Army, with respect to the United States Military Academy.

(B) The Secretary of the Navy, with respect to the United States Naval Academy.

(C) The Secretary of the Air Force, with respect to the United States Air Force Academy.

(D) The Secretary of Transportation, with respect to the United States Coast Guard Academy.

(3) The terms “apparently fit grocery product”, “apparently wholesome food”, “donate”, “food”, and “grocery product” have the meanings given those terms in section 402(b) of the National and Community Service Act of 1990 (42 U.S.C. 12672(b)).

**SEC. 375. AUTHORITY OF AIR NATIONAL GUARD TO PROVIDE CERTAIN SERVICES AT LINCOLN MUNICIPAL AIRPORT, LINCOLN, NEBRASKA.**

(a) AUTHORITY.—The Nebraska Air National Guard may provide fire protection services and rescue services relating to aircraft at Lincoln Municipal Airport, Lincoln, Nebraska, on behalf of the Lincoln Municipal Airport Authority, Lincoln, Nebraska.

(b) AGREEMENT.—The Nebraska Air National Guard may not provide services under subsection (a) until the Nebraska Air National Guard and the authority enter into an agreement under which the authority agrees—

(1) to reimburse the Nebraska Air National Guard for the cost of the services provided; and

(2) to hold harmless and indemnify the United States, except in cases of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the provision of, or the failure to provide, such services.

(c) EFFECT ON MILITARY PREPAREDNESS.—Services may only be provided under subsection (a) to the extent that the provision of such services does not adversely affect the military preparedness of the Armed Forces.



**SEC. 376. TECHNICAL AMENDMENT REGARDING IMPACT AID PROGRAM.**

Paragraph (3) of section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by striking out “2,000 and such number equals or exceeds 15” and inserting in lieu thereof “1,000 or such number equals or exceeds 10”.

## **TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS**

### **Subtitle A—Active Forces**

- Sec. 401. End strengths for active forces.
- Sec. 402. Permanent end strength levels to support two major regional contingencies.
- Sec. 403. Authorized strengths for commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and navy grades of lieutenant commander, commander, and captain.
- Sec. 404. Extension of requirement for recommendations regarding appointments to joint 4-star officer positions.
- Sec. 405. Increase in authorized number of general officers on active duty in the Marine Corps.

### **Subtitle B—Reserve Forces**

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for reserves on active duty in support of the Reserves.
- Sec. 413. End strengths for military technicians.
- Sec. 414. Assurance of continued assignment of military personnel to serve in Selective Service System.

### **Subtitle C—Authorization of Appropriations**

- Sec. 421. Authorization of appropriations for military personnel.

## **Subtitle A—Active Forces**

### **SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

10 USC 115 note.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1997, as follows:

- (1) The Army, 495,000.
- (2) The Navy, 407,318.
- (3) The Marine Corps, 174,000.
- (4) The Air Force, 381,100.

### **SEC. 402. PERMANENT END STRENGTH LEVELS TO SUPPORT TWO MAJOR REGIONAL CONTINGENCIES.**

(a) REQUIREMENT TO BUDGET FOR AND MAINTAIN STATUTORY END STRENGTH LEVELS.—Section 691 of title 10, United States Code, is amended—

- (1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

- (2) by striking out subsection (c) and inserting in lieu thereof the following:

“(c) The budget for the Department of Defense for any fiscal year as submitted to Congress shall include amounts for funding for each of the armed forces (other than the Coast Guard) at least in the amounts necessary to maintain the active duty end strengths prescribed in subsection (b), as in effect at the time that such budget is submitted.

“(d) No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces (other than the Coast Guard) for any fiscal year below the level specified in subsection (b) unless the reduction in end strength for that armed force for that fiscal year is specifically authorized by law.”.

(b) TEMPORARY FLEXIBILITY RELATING TO PERMANENT END STRENGTH LEVELS.—Subsection (e) of such section, as redesignated by subsection (a)(1), is amended by striking out “not more than 0.5 percent” and inserting in lieu thereof “not more than 1 percent”.

**SEC. 403. AUTHORIZED STRENGTHS FOR COMMISSIONED OFFICERS ON ACTIVE DUTY IN GRADES OF MAJOR, LIEUTENANT COLONEL, AND COLONEL AND NAVY GRADES OF LIEUTENANT COMMANDER, COMMANDER, AND CAPTAIN.**

(a) REVISION IN ARMY, AIR FORCE, AND MARINE CORPS LIMITATIONS.—The table in paragraph (1) of section 523(a) of title 10, United States Code, is amended to read as follows:

Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
<b>Army:</b>			
20,000 .....	6,848	5,253	1,613
25,000 .....	7,539	5,642	1,796
30,000 .....	8,231	6,030	1,980
35,000 .....	8,922	6,419	2,163
40,000 .....	9,614	6,807	2,347
45,000 .....	10,305	7,196	2,530
50,000 .....	10,997	7,584	2,713
55,000 .....	11,688	7,973	2,897
60,000 .....	12,380	8,361	3,080
65,000 .....	13,071	8,750	3,264
70,000 .....	13,763	9,138	3,447
75,000 .....	14,454	9,527	3,631
80,000 .....	15,146	9,915	3,814
85,000 .....	15,837	10,304	3,997
90,000 .....	16,529	10,692	4,181
95,000 .....	17,220	11,081	4,364
100,000 .....	17,912	11,469	4,548
110,000 .....	19,295	12,246	4,915
120,000 .....	20,678	13,023	5,281
130,000 .....	22,061	13,800	5,648
170,000 .....	27,593	16,908	7,116
<b>Air Force:</b>			
35,000 .....	9,216	7,090	2,125
40,000 .....	10,025	7,478	2,306
45,000 .....	10,835	7,866	2,487
50,000 .....	11,645	8,253	2,668
55,000 .....	12,454	8,641	2,849
60,000 .....	13,264	9,029	3,030
65,000 .....	14,073	9,417	3,211

“Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
70,000 .....	14,883	9,805	3,392
75,000 .....	15,693	10,193	3,573
80,000 .....	16,502	10,582	3,754
85,000 .....	17,312	10,971	3,935
90,000 .....	18,121	11,360	4,115
95,000 .....	18,931	11,749	4,296
100,000 .....	19,741	12,138	4,477
105,000 .....	20,550	12,527	4,658
110,000 .....	21,360	12,915	4,838
115,000 .....	22,169	13,304	5,019
120,000 .....	22,979	13,692	5,200
125,000 .....	23,789	14,081	5,381
Marine Corps:			
10,000 .....	2,525	1,480	571
12,500 .....	2,900	1,600	592
15,000 .....	3,275	1,720	613
17,500 .....	3,650	1,840	633
20,000 .....	4,025	1,960	654
22,500 .....	4,400	2,080	675
25,000 .....	4,775	2,200	695.”

(b) REVISION IN NAVY LIMITATIONS.—The table in paragraph (2) of such section is amended to read as follows:

“Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Lieutenant commander	Commander	Captain
Navy:			
30,000 .....	7,331	5,018	2,116
33,000 .....	7,799	5,239	2,223
36,000 .....	8,267	5,460	2,330
39,000 .....	8,735	5,681	2,437
42,000 .....	9,203	5,902	2,544
45,000 .....	9,671	6,123	2,651
48,000 .....	10,139	6,343	2,758
51,000 .....	10,606	6,561	2,864
54,000 .....	11,074	6,782	2,971
57,000 .....	11,541	7,002	3,078
60,000 .....	12,009	7,222	3,185
63,000 .....	12,476	7,441	3,292
66,000 .....	12,944	7,661	3,398
70,000 .....	13,567	7,954	3,541
90,000 .....	16,683	9,419	4,254.”

(c) REPEAL OF TEMPORARY AUTHORITY FOR VARIATIONS IN END STRENGTHS.—The following provisions of law are repealed:

(1) Section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1639; 10 U.S.C. 523 note).

(2) Section 402 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2743; 10 U.S.C. 523 note).

(3) Section 402 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 286; 10 U.S.C. 523 note).

10 USC 523 note.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a), (b), and (c) shall take effect on September 1, 1997.

**SEC. 404. EXTENSION OF REQUIREMENT FOR RECOMMENDATIONS REGARDING APPOINTMENTS TO JOINT 4-STAR OFFICER POSITIONS.**

(a) **SERVICE SECRETARY RECOMMENDATION REQUIRED.**—Section 604(c) of title 10, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 2000”.

(b) **GRADE RELIEF WHEN RECOMMENDATION MADE.**—Section 525(b)(5)(C) of such title is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 2000”.

**SEC. 405. INCREASE IN AUTHORIZED NUMBER OF GENERAL OFFICERS ON ACTIVE DUTY IN THE MARINE CORPS.**

Section 526(a)(4) of title 10, United States Code, is amended by striking out “68” and inserting in lieu thereof “80”.

## Subtitle B—Reserve Forces

10 USC 12001  
note.

**SEC. 411. END STRENGTHS FOR SELECTED RESERVE.**

(a) **IN GENERAL.**—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1997, as follows:

- (1) The Army National Guard of the United States, 366,758.
- (2) The Army Reserve, 215,179.
- (3) The Naval Reserve, 96,304.
- (4) The Marine Corps Reserve, 42,000.
- (5) The Air National Guard of the United States, 109,178.
- (6) The Air Force Reserve, 73,311.
- (7) The Coast Guard Reserve, 8,000.

(b) **WAIVER AUTHORITY.**—The Secretary of Defense may vary the end strength authorized by subsection (a) by not more than 2 percent.

(c) **ADJUSTMENTS.**—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component for a fiscal year shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

**SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.**

10 USC 12001  
note.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1997, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 22,798.
- (2) The Army Reserve, 11,729.
- (3) The Naval Reserve, 16,603.
- (4) The Marine Corps Reserve, 2,559.
- (5) The Air National Guard of the United States, 10,403.
- (6) The Air Force Reserve, 655.

**SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS.**

10 USC 115 note.

(a) **AUTHORIZATION FOR FISCAL YEAR 1997.**—The minimum number of military technicians as of the last day of fiscal year 1997 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

- (1) For the Army Reserve, 6,799.
- (2) For the Army National Guard of the United States, 25,500.
- (3) For the Air Force Reserve, 9,802.
- (4) For the Air National Guard of the United States, 23,299.

(b) **INFORMATION TO BE PROVIDED WITH FUTURE AUTHORIZATION REQUESTS.**—Section 10216 of title 10, United States Code, is amended—

- (1) by redesignating subsection (b) as subsection (c); and
- (2) by inserting after subsection (a) the following new subsection (b):

“(b) **INFORMATION REQUIRED TO BE SUBMITTED WITH ANNUAL END STRENGTH AUTHORIZATION REQUEST.**—(1) The Secretary of Defense shall include as part of the budget justification documents submitted to Congress with the budget of the Department of Defense for any fiscal year the following information with respect to the end strengths for military technicians requested in that budget pursuant to section 115(g) of this title, shown separately for each of the Army and Air Force reserve components:

“(A) The number of dual-status technicians in the high priority units and organizations specified in subsection (a)(1).

“(B) The number of technicians other than dual-status technicians in the high priority units and organizations specified in subsection (a)(1).

“(C) The number of dual-status technicians in other than high priority units and organizations specified in subsection (a)(1).

“(D) The number of technicians other than dual-status technicians in other than high priority units and organizations specified in subsection (a)(1).

“(2)(A) If the budget submitted to Congress for any fiscal year requests authorization for that fiscal year under section 115(g) of this title of a military technician end strength for a reserve component of the Army or Air Force in a number that constitutes a reduction from the end strength minimum established by law for that reserve component for the fiscal year during which the budget is submitted, the Secretary of Defense shall submit to the congressional defense committees with that budget a justification providing the basis for that requested reduction in technician end strength.

“(B) Any justification submitted under subparagraph (A) shall clearly delineate—

“(i) in the case of a reduction that includes a reduction in technicians described in subparagraph (A) or (C) of paragraph (1), the specific force structure reductions forming the basis for such requested technician reduction (and the numbers related to those force structure reductions); and

“(ii) in the case of a reduction that includes reductions in technicians described in subparagraphs (B) or (D) of paragraph (1), the specific force structure reductions, Department of Defense civilian personnel reductions, or other reasons forming the basis for such requested technician reduction (and the numbers related to those reductions).”.

(c) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by striking out “section 115” and inserting in lieu thereof “section 115(g)”; and

(2) in subsection (c), as redesignated by subsection (b)(1), by striking out “after the date of the enactment of this section” both places it appears and inserting in lieu thereof “after February 10, 1996,”.

**SEC. 414. ASSURANCE OF CONTINUED ASSIGNMENT OF MILITARY PERSONNEL TO SERVE IN SELECTIVE SERVICE SYSTEM.**

(a) NUMBER OF MILITARY PERSONNEL TO BE ASSIGNED.—Section 10 of the Military Selective Service Act (50 U.S.C. App. 460) is amended—

(1) in subsection (b)(2), by inserting “, subject to subsection (e),” after “to employ such number of civilians, and”; and

(2) by inserting after subsection (d) the following new subsection:

“(e) The total number of armed forces personnel assigned to the Selective Service System under subsection (b)(2) at any time may not be less than the number of such personnel determined by the Director of Selective Service to be necessary, but not to exceed 745 persons, except that the President may assign additional armed forces personnel to the Selective Service System during a time of war or a national emergency declared by Congress or the President.”.

(b) STYLISTIC AMENDMENTS.—Subsection (b) of such section is amended—

(1) by striking out “authorized—” in the matter preceding paragraph (1) and inserting in lieu thereof “authorized to undertake the following.”;

(2) by striking out “to” at the beginning of paragraphs (1) through (7) and inserting in lieu thereof “To”;

- (3) by striking out "subject" at the beginning of paragraphs (8), (9), and (10) and inserting in lieu thereof "Subject"; and  
(4) by striking out the semicolon at the end of paragraphs (1) through (9) and inserting in lieu thereof a period.

## **Subtitle C—Authorization of Appropriations**

### **SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1997 a total of \$70,056,130,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1997.

## **TITLE V—MILITARY PERSONNEL POLICY**

### **Subtitle A—Officer Personnel Policy**

- Sec. 501. Grade of Chief of Naval Research.  
Sec. 502. Chief and assistant chief of Army Nurse Corps and Air Force Nurse Corps.  
Sec. 503. Navy spot promotion authority for certain lieutenants with critical skills.  
Sec. 504. Time for award of degrees by unaccredited educational institutions for graduates to be considered educationally qualified for appointment as Reserve officers in grade O-3.  
Sec. 505. Exception to baccalaureate degree requirement for appointment in the Naval Reserve in grades above O-2.  
Sec. 506. Chief warrant officer promotions.  
Sec. 507. Service credit for senior ROTC cadets and midshipmen in simultaneous membership program.  
Sec. 508. Continuation on active status for certain Reserve officers of the Air Force.  
Sec. 509. Reports on response to recommendations concerning improvements to Department of Defense joint manpower process.  
Sec. 510. Frequency of reports to Congress on joint officer management policies.

### **Subtitle B—Enlisted Personnel Policy**

- Sec. 511. Career service reenlistments for members with at least 10 years of service.  
Sec. 512. Authority to extend period for entry on active duty under the delayed entry program.

### **Subtitle C—Activation and Recall**

- Sec. 521. Limitations on recall of retired members to active duty.  
Sec. 522. Clarification of definition of active status.  
Sec. 523. Limitation of requirement for physical examinations of members of National Guard called into Federal service.

### **Subtitle D—Reserve Component Retirement**

- Sec. 531. Increase in annual limit on days of inactive duty training creditable toward reserve retirement.  
Sec. 532. Retirement of reserve enlisted members who qualify for active duty retirement after administrative reduction in enlisted grade.  
Sec. 533. Authority for a Reserve on active duty to waive retirement sanctuary.  
Sec. 534. Eligibility of Reserves for disability retirement.

### **Subtitle E—Other Reserve Component Matters**

- Sec. 541. Training for Reserves on active duty in support of the Reserves.  
Sec. 542. Eligibility for enrollment in Ready Reserve mobilization income insurance program.  
Sec. 543. Reserve credit for participation in Health Professions Scholarship and Financial Assistance Program.

- Sec. 544. Amendments to Reserve Officer Personnel Management Act provisions.
- Sec. 545. Report on number of advisers in active component support of Reserves pilot program.
- Sec. 546. Sense of Congress and report regarding reemployment rights for mobilized Reservists employed in foreign countries.
- Sec. 547. Payment of premiums under Mobilization Income Insurance Program.

#### **Subtitle F—Officer Education Programs**

- Sec. 551. Oversight and management of Senior Reserve Officers' Training Corps program.
- Sec. 552. Prohibition on reorganization of Army ROTC cadet command or termination of senior ROTC units pending report on ROTC.
- Sec. 553. Pilot program to test expansion of ROTC program to include graduate students.
- Sec. 554. Demonstration project for instruction and support of Army ROTC units by members of the Army Reserve and National Guard.
- Sec. 555. Extension of maximum age for appointment as a cadet or midshipman in the Senior Reserve Officers' Training Corps and the service academies.
- Sec. 556. Expansion of eligibility for education benefits to include certain Reserve Officers' Training Corps (ROTC) participants.
- Sec. 557. Comptroller General report on cost and policy implications of permitting up to five percent of service academy graduates to be assigned directly to Reserve duty upon graduation.

#### **Subtitle G—Decorations and Awards**

- Sec. 561. Authority for award of Medal of Honor to certain African American soldiers who served during World War II.
- Sec. 562. Waiver of time limitations for award of certain decorations to specified persons.
- Sec. 563. Replacement of certain American Theater Campaign Ribbons.

#### **Subtitle H—Other Matters**

- Sec. 571. Hate crimes in the military.
- Sec. 572. Disability coverage for members granted excess leave for educational or emergency purposes.
- Sec. 573. Clarification of authority of a reserve judge advocate to act as a military notary public when not in a duty status.
- Sec. 574. Panel on jurisdiction of courts-martial for the National Guard when not in Federal service.
- Sec. 575. Authority to expand law enforcement placement program to include firefighters.
- Sec. 576. Improvements to program to assist separated military and civilian personnel to obtain employment as teachers or teachers' aides.
- Sec. 577. Retirement at grade to which selected for promotion when a physical disability is found at any physical examination.
- Sec. 578. Revisions to missing persons authorities.

#### **Subtitle I—Commissioned Corps of the Public Health Service**

- Sec. 581. Applicability to Public Health Service of prohibition on crediting cadet or midshipmen service at the service academies.
- Sec. 582. Exception to strength limitations for Public Health Service officers assigned to the Department of Defense.
- Sec. 583. Authority to provide legal assistance to Public Health Service officers.

### **Subtitle A—Officer Personnel Policy**

#### **SEC. 501. GRADE OF CHIEF OF NAVAL RESEARCH.**

(a) REAR ADMIRAL (UPPER HALF).—Section 5022(a) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(a)”; and

(2) by adding at the end the following:

“(2) Unless appointed to higher grade under another provision of law, an officer, while serving in the Office of Naval Research as Chief of Naval Research, has the rank of rear admiral (upper half).”

(b) EFFECTIVE DATE.—Paragraph (2) of section 5022(a) of title 10, United States Code, as added by subsection (a), shall take

10 USC 5022  
note.



effect upon the occurrence of the first vacancy in the position of Chief of Naval Research after the date of the enactment of this Act.

**Sec. 502. CHIEF AND ASSISTANT CHIEF OF ARMY NURSE CORPS AND AIR FORCE NURSE CORPS.**

(a) ARMY NURSE CORPS.—(1) Subsection (b) of section 3069 of title 10, United States Code, is amended—

(A) in the first sentence, by striking out “major” and inserting in lieu thereof “lieutenant colonel”;

(B) by inserting after the first sentence the following: “An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.”; and

(C) in the last sentence, by inserting “to the same position” before the period at the end.

(2) Subsection (c) of such section is amended by striking out “major” in the first sentence and inserting in lieu thereof “lieutenant colonel”.

(3) The heading of such section is amended to read as follows:

**“§ 3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade**

(b) AIR FORCE NURSE CORPS.—Chapter 807 of such title is amended by inserting after section 8067 the following new section:

**“§ 8069. Air Force nurses: Chief and assistant chief; appointment; grade**

“(a) POSITIONS OF CHIEF AND ASSISTANT CHIEF.—There are a Chief and assistant chief of the Air Force Nurse Corps.

“(b) CHIEF.—The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Chief serves during the pleasure of the Secretary, but not for more than three years, and may not be reappointed to the same position.

“(c) ASSISTANT CHIEF.—The Surgeon General shall appoint the assistant chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel.”

(c) CLERICAL AMENDMENTS.—(1) The item relating to section 3069 in the table of sections at the beginning of chapter 307 of such title is amended to read as follows:

“3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade.”

(2) The table of sections at the beginning of chapter 807 of such title is amended by inserting after the item relating to section 8067 the following new item:

“8069. Air Force Nurse Corps: Chief and assistant chief; appointment; grade.”

**Sec. 503. NAVY SPOT PROMOTION AUTHORITY FOR CERTAIN LIEUTENANTS WITH CRITICAL SKILLS.**

(a) ADVICE-AND-CONSENT APPOINTMENTS.—Subsection (a) of section 5721 of title 10, United States Code, is amended by striking out “the President alone” and inserting in lieu thereof “the President, by and with the advice and consent of the Senate”.

(b) REPEAL OF TERMINATION OF AUTHORITY.—Such section is further amended by striking out subsection (g).

(c) CLERICAL AMENDMENT.—The caption for subsection (a) is amended to read as follows: “PROMOTION AUTHORITY FOR CERTAIN OFFICERS WITH CRITICAL SKILLS.—”.

**SEC. 504. TIME FOR AWARD OF DEGREES BY UNACCREDITED EDUCATIONAL INSTITUTIONS FOR GRADUATES TO BE CONSIDERED EDUCATIONALLY QUALIFIED FOR APPOINTMENT AS RESERVE OFFICERS IN GRADE O-3.**

Section 12205(c)(2)(C) of title 10, United States Code, is amended by striking out “three years” and inserting in lieu thereof “eight years”.

**SEC. 505. EXCEPTION TO BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT IN THE NAVAL RESERVE IN GRADES ABOVE O-2.**

Section 12205(b)(3) of title 10, United States Code, is amended by inserting “or the Seaman to Admiral program” after “(NAVCAD) program”.

**SEC. 506. CHIEF WARRANT OFFICER PROMOTIONS.**

(a) REDUCTION OF MINIMUM TIME IN GRADE REQUIRED FOR CONSIDERATION FOR PROMOTION.—Section 574(e) of title 10, United States Code, is amended by striking out “three years of service” and inserting in lieu thereof “two years of service”.

(b) BELOW-ZONE SELECTION.—Section 575(b)(1) of such title is amended by inserting “chief warrant officer, W-3,” in the first sentence after “to consider warrant officers for selection for promotion to the grade of”.

**SEC. 507. SERVICE CREDIT FOR SENIOR ROTC CADETS AND MIDSHIPMEN IN SIMULTANEOUS MEMBERSHIP PROGRAM.**

(a) AMENDMENTS TO TITLE 10.—(1) Section 2106(c) of title 10, United States Code, is amended by striking out “while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve” and inserting in lieu thereof “performed on or after August 1, 1979, as a member of the Selected Reserve”.

(2) Section 2107(g) of such title is amended by striking out “while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve” and inserting in lieu thereof “performed on or after August 1, 1979, as a member of the Selected Reserve”.

(3) Section 2107a(g) of such title is amended by inserting “, other than enlisted service performed after August 1, 1979, as a member of Selected Reserve” after “service as a cadet or with concurrent enlisted service”.

(b) AMENDMENT TO TITLE 37.—Section 205(d) of title 37, United States Code, is amended by striking out “that service after July 31, 1990, that the officer performed while serving on active duty” and inserting in lieu thereof “for service that the officer performed on or after August 1, 1979.”

(c) BENEFITS NOT TO ACCRUE FOR PRIOR PERIODS.—No increase in pay or retired or retainer pay shall accrue for periods before the date of the enactment of this Act by reason of the amendments made by this section.

**SEC. 508. CONTINUATION ON ACTIVE STATUS FOR CERTAIN RESERVE OFFICERS OF THE AIR FORCE.**

(a) **AUTHORITY.**—Section 14507 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) **TEMPORARY AUTHORITY TO RETAIN CERTAIN OFFICERS DESIGNATED AS JUDGE ADVOCATES.**—(1) Notwithstanding the provisions of subsections (a) and (b), the Secretary of the Air Force may retain on the reserve active-status list any reserve officer of the Air Force who is designated as a judge advocate and who obtained the first professional degree in law while on an educational delay program subsequent to being commissioned through the Reserve Officers’ Training Corps.

“(2) No more than 50 officers may be retained on the reserve active-status list under the authority of paragraph (1) at any time.

“(3) No officer may be retained on the reserve active-status list under the authority of paragraph (1) for a period exceeding three years from the date on which, but for that authority, that officer would have been removed from the reserve active-status list under subsection (a) or (b).

“(4) The authority of the Secretary of the Air Force under paragraph (1) expires on September 30, 2003.”.

Expiration date.

(b) **EFFECTIVE DATE.**—Subsection (c) of section 14507 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996.

10 USC 14507  
note.

**SEC. 509. REPORTS ON RESPONSE TO RECOMMENDATIONS CONCERNING IMPROVEMENTS TO DEPARTMENT OF DEFENSE JOINT MANPOWER PROCESS.**

(a) **SEMIANNUAL REPORT.**—The Secretary of Defense shall submit to Congress a semiannual report on the status of actions taken by the Secretary to implement the recommendations made by the Department of Defense Inspector General in the report of November 29, 1995, entitled “Inspection of the Department of Defense Joint Manpower Process” (Report No. 96-029). The first such report shall be submitted not later than February 1, 1997. The requirement to submit such reports terminates after the fourth such report is submitted.

Termination  
date.

(b) **ADDITIONAL MATTER FOR FIRST REPORT.**—As part of the first report under subsection (a), the Secretary shall include the following:

(1) The Secretary’s assessment as to the need to establish a joint, centralized permanent organization in the Department of Defense to determine, validate, approve, and manage military and civilian manpower requirements resources at joint organizations.

(2) The Secretary’s assessment of the Department of Defense timeline and plan to increase the capability of the joint professional military education system (including the Armed Forces Staff College) to overcome the capacity limitations cited in the report referred to in subsection (a).

(3) The Secretary’s plan and timeline to provide the necessary training and education of reserve component officers.

(c) **GAO ASSESSMENT.**—The Comptroller General of the United States shall assess the completeness and adequacy of the corrective actions taken by the Secretary with respect to the matters covered in the Inspector General report referred to in subsection (a). Not later than one year after the date of the enactment of this Act,

the Comptroller General shall submit to Congress a report, based on the assessment under this subsection, providing the Comptroller General's findings and recommendations.

**SEC. 510. FREQUENCY OF REPORTS TO CONGRESS ON JOINT OFFICER MANAGEMENT POLICIES.**

(a) **CHANGE FROM SEMIANNUAL TO ANNUAL REPORT.**—Section 662(b) of title 10, United States Code, is amended by striking out “REPORT.—The Secretary of Defense shall periodically (and not less often than every six months) report to Congress on the promotion rates” and inserting in lieu thereof “ANNUAL REPORT.—Not later than January 1 of each year, the Secretary of Defense shall submit to Congress a report on the promotion rates during the preceding fiscal year”.

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—Such section is further amended—

(1) in the first sentence, by striking out “clauses” and inserting in lieu thereof “paragraphs”; and

(2) in the second sentence—

(A) by inserting “for any fiscal year” after “such objectives”; and

(B) by striking out “periodic report required by this subsection” and inserting in lieu thereof “report for that fiscal year”.

## **Subtitle B—Enlisted Personnel Policy**

**SEC. 511. CAREER SERVICE REENLISTMENTS FOR MEMBERS WITH AT LEAST 10 YEARS OF SERVICE.**

Subsection (d) of section 505 of title 10, United States Code, is amended to read as follows:

“(d)(1) The Secretary concerned may accept a reenlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, for a period determined under this subsection.

“(2) In the case of a member who has less than 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the period for which the member reenlists shall be at least two years but not more than six years.

“(3) In the case of a member who has at least 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the Secretary concerned may accept a reenlistment for either—

“(A) a specified period of at least two years but not more than six years; or

“(B) an unspecified period.

“(4) No enlisted member is entitled to be reenlisted for a period that would expire before the end of the member's current enlistment.”.

**SEC. 512. AUTHORITY TO EXTEND PERIOD FOR ENTRY ON ACTIVE DUTY UNDER THE DELAYED ENTRY PROGRAM.**

(a) **AUTHORITY.**—Section 513(b) of title 10, United States Code, is amended by inserting after the first sentence the following: “The Secretary concerned may extend the 365-day period for any person for up to an additional 180 days if the Secretary determines

that it is in the best interests of the armed force of which that person is a member to do so.”

(b) TECHNICAL AMENDMENTS.—Section 513(b) of such title, as amended by subsection (a), is further amended—

(1) by inserting “(1)” after “(b)”;

(2) by designating the third sentence as paragraph (2); and

(3) in paragraph (2), as so designated, by striking out “the preceding sentence” and inserting in lieu thereof “paragraph (1)”.

## Subtitle C—Activation and Recall

### SEC. 521. LIMITATIONS ON RECALL OF RETIRED MEMBERS TO ACTIVE DUTY.

(a) REVISION AND RECODIFICATION OF AUTHORITIES RELATING TO RETIRED MEMBERS ORDERED TO ACTIVE DUTY.—Chapter 39 of title 10, United States Code, is amended by striking out section 688 and inserting in lieu thereof the following:

#### “§ 688. Retired members: authority to order to active duty; duties

“(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, a member described in subsection (b) may be ordered to active duty by the Secretary of the military department concerned at any time. Regulations.

“(b) COVERED MEMBERS.—Except as provided in subsection (d), subsection (a) applies to the following members of the armed forces:

“(1) A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps.

“(2) A member of the Retired Reserve who was retired under section 1293, 3911, 3914, 6323, 8911, or 8914 of this title.

“(3) A member of the Fleet Reserve or Fleet Marine Corps Reserve.

“(c) DUTIES OF MEMBER ORDERED TO ACTIVE DUTY.—The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

“(d) EXCLUSION OF OFFICERS RETIRED ON SELECTIVE EARLY RETIREMENT BASIS.—The following officers may not be ordered to active duty under this section:

“(1) An officer who retired under section 638 of this title.

“(2) An officer who—

“(A) after having been notified that the officer was to be considered for early retirement under section 638 of this title by a board convened under section 611(b) of this title and before being considered by that board, requested retirement under section 3911, 6323, or 8911 of this title; and

“(B) was retired pursuant to that request.

“(e) LIMITATION OF PERIOD OF RECALL SERVICE.—A member ordered to active duty under subsection (a) may not serve on active duty pursuant to orders under that subsection for more than 12

months within the 24 months following the first day of the active duty to which ordered under that subsection.

“(f) **WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.**—Subsections (d) and (e) do not apply in time of war or of national emergency declared by Congress or the President.

**“§ 689. Retired members: grade in which ordered to active duty and upon release from active duty**

“(a) **GENERAL RULE FOR GRADE IN WHICH ORDERED TO ACTIVE DUTY.**—Except as provided in subsections (b) and (c), a retired member ordered to active duty under section 688 of this title shall be ordered to active duty in the member's retired grade.

“(b) **MEMBERS RETIRED IN O-9 AND O-10 GRADES.**—A retired member ordered to active duty under section 688 of this title whose retired grade is above the grade of major general or rear admiral shall be ordered to active duty in the highest permanent grade held by such member while serving on active duty.

“(c) **MEMBERS WHO PREVIOUSLY SERVED IN GRADE HIGHER THAN RETIRED GRADE.**—(1) A retired member ordered to active duty under section 688 of this title who has previously served on active duty satisfactorily, as determined by the Secretary of the military department concerned, in a grade higher than that member's retired grade may be ordered to active duty in the highest grade in which the member had so served satisfactorily, except that such a member may not be so ordered to active duty in a grade above major general or rear admiral.

“(2) A retired member ordered to active duty in a grade that is higher than the member's retired grade pursuant to subsection (a) shall be treated for purposes of section 690 of this title as if the member was promoted to that higher grade while on that tour of active duty.

“(3) If, upon being released from that tour of active duty, such a retired member has served on active duty satisfactorily, as determined by the Secretary concerned, for not less than a total of 36 months in a grade that is a higher grade than the member's retired grade, the member is entitled to placement on the retired list in that grade.

“(d) **GRADE UPON RELEASE FROM ACTIVE DUTY.**—A member ordered to active duty under section 688 of this title who, while on active duty, is promoted to a grade that is higher than that member's retired grade is entitled, upon that member's release from that tour of active duty, to placement on the retired list in the highest grade in which the member served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

**“§ 690. Retired members ordered to active duty: limitation on number**

“(a) **GENERAL AND FLAG OFFICERS.**—Not more than 15 retired general officers of the Army, Air Force, or Marine Corps, and not more than 15 retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.

“(b) **LIMITATION BY SERVICE.**—(1) Not more than 25 officers of any one armed force may be serving on active duty concurrently

pursuant to orders to active duty issued under section 688 of this title.

“(2) In the administration of paragraph (1), the following officers shall not be counted:

“(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

“(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of the active duty to which ordered.

“(C) Any officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

“(c) **WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.**—Subsection (a) does not apply in time of war or of national emergency declared by Congress or the President after November 30, 1980. Subsection (b) does not apply in time of war or of national emergency declared by Congress or the President.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on September 30, 1997. 10 USC 688 note.

(c) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 688 and inserting in lieu thereof the following:

“688. Retired members: authority to order to active duty; duties.

“689. Retired members: grade in which ordered to active duty and upon release from active duty.

“690. Retired members ordered to active duty: limitation on number.”.

(d) **CROSS REFERENCE AMENDMENT.**—Section 6151(a) of title 10, United States Code, is amended by striking out “688” and inserting in lieu thereof “689”.

#### **SEC. 522. CLARIFICATION OF DEFINITION OF ACTIVE STATUS.**

Section 101(d)(4) of title 10, United States Code, is amended by striking out “a reserve commissioned officer, other than a commissioned warrant officer,” and inserting in lieu thereof the following: “a member of a reserve component”.

#### **SEC. 523. LIMITATION OF REQUIREMENT FOR PHYSICAL EXAMINATIONS OF MEMBERS OF NATIONAL GUARD CALLED INTO FEDERAL SERVICE.**

Section 12408(a) of title 10, United States Code, is amended by inserting “under section 12301(a), 12302, or 12304 of this title” after “called into Federal service”.

## **Subtitle D—Reserve Component Retirement**

#### **SEC. 531. INCREASE IN ANNUAL LIMIT ON DAYS OF INACTIVE DUTY TRAINING CREDITABLE TOWARD RESERVE RETIREMENT.**

(a) **INCREASE IN LIMIT.**—Section 12733(3) is amended by inserting before the period at the end the following: “of service before the year of service in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs and not more than 75 days in any subsequent year of service”.

(b) **TRACKING SYSTEM FOR AWARD OF RETIREMENT POINTS.**—To better enable the Secretary of Defense and Congress to assess 10 USC 12732 note.

the cost and the effect on readiness of the amendment made by subsection (a) and of other potential changes to the Reserve retirement system under chapter 1223 of title 10, United States Code, the Secretary of Defense shall require the Secretary of each military department to implement a system to monitor the award of retirement points for purposes of that chapter by categories in accordance with the recommendation set forth in the August 1988 report of the Sixth Quadrennial Review of Military Compensation.

10 USC 12732  
note.

(c) RECOMMENDATIONS TO CONGRESS.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act, the recommendations of the Secretary with regard to the adoption of the following Reserve retirement initiatives recommended in the August 1988 report of the Sixth Quadrennial Review of Military Compensation:

(1) Elimination of membership points under subparagraph (C) of section 12732(a)(2) of title 10, United States Code, in conjunction with a decrease from 50 to 35 in the number of points required for a satisfactory year under that section.

(2) Limitation to 60 in any year on the number of points that may be credited under subparagraph (B) of section 12732(a)(2) of such title at two points per day.

(3) Limitation to 360 in any year on the total number of retirement points countable for purposes of section 12733 of such title.

**SEC. 532. RETIREMENT OF RESERVE ENLISTED MEMBERS WHO QUALIFY FOR ACTIVE DUTY RETIREMENT AFTER ADMINISTRATIVE REDUCTION IN ENLISTED GRADE.**

(a) ARMY.—(1) Chapter 369 of title 10, United States Code, is amended by inserting after section 3962 the following new section:

**“§ 3963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member’s misconduct**

“(a) A Reserve enlisted member of the Army described in subsection (b) who is retired under section 3914 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Army.

Applicability.

“(b) This section applies to a Reserve enlisted member who—

“(1) at the time of retirement is serving on active duty (or, in the case of a member of the National Guard, on full-time National Guard duty) in a grade lower than the highest enlisted grade held by the member while on active duty (or full-time National Guard duty); and

“(2) was previously administratively reduced in grade not as a result of the member’s own misconduct, as determined by the Secretary of the Army.

Applicability.

“(c) This section applies with respect to Reserve enlisted members who are retired under section 3914 of this title after September 30, 1996.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3962 the following new item:



“3963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member’s misconduct.”.

(b) NAVY AND MARINE CORPS.—(1) Chapter 571 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 6336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member’s misconduct**

“(a) A member of the Naval Reserve or Marine Corps Reserve described in subsection (b) who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title shall be transferred in the highest enlisted grade in which the member served on active duty satisfactorily, as determined by the Secretary of the Navy.

“(b) This section applies to a Reserve enlisted member who—

Applicability.

“(1) at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty; and

“(2) was previously administratively reduced in grade not as a result of the member’s own misconduct, as determined by the Secretary of the Navy.

“(c) This section applies with respect to enlisted members of the Naval Reserve and Marine Corps Reserve who are transferred to the Fleet Reserve or the Fleet Marine Corps Reserve after September 30, 1996.”.

Applicability.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member’s misconduct.”.

(c) AIR FORCE.—(1) Chapter 869 of title 10, United States Code, is amended by inserting after section 8962 the following new section:

**“§ 8963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member’s misconduct**

“(a) A Reserve enlisted member of the Air Force described in subsection (b) who is retired under section 8914 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Air Force.

“(b) This section applies to a Reserve enlisted member who—

Applicability.

“(1) at the time of retirement is serving on active duty (or, in the case of a member of the National Guard, on full-time National Guard duty) in a grade lower than the highest enlisted grade held by the member while on active duty (or full-time National Guard duty); and

“(2) was previously administratively reduced in grade not as a result of the member’s own misconduct, as determined by the Secretary of the Air Force.

“(c) This section applies with respect to Reserve enlisted members who are retired under section 8914 of this title after September 30, 1996.”.

Applicability.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8962 the following new item:

“8963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member’s misconduct.”.

(d) COMPUTATION OF RETIRED AND RETAINER PAY BASED UPON RETIRED GRADE.—(1) Section 3991 of such title is amended by adding at the end the following new subsection:

“(c) SPECIAL RULE FOR RETIRED RESERVE ENLISTED MEMBERS COVERED BY SECTION 3963.—In the case of a Reserve enlisted member retired under section 3914 of this title whose retired grade is determined under section 3963 of this title and who first became a member of a uniformed service before September 8, 1980, the retired pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the member’s retired grade (determined based upon the rates of basic pay applicable on the date of the member’s retirement), and that amount shall be used for the purposes of subsection (a)(1)(A) rather than the amount computed under section 1406(c) of this title.”.

(2) Section 6333 of such title is amended by adding at the end the following new subsection:

“(c) In the case of a Reserve enlisted member whose grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve is determined under section 6336 of this title and who first became a member of a uniformed service before September 8, 1980, the retainer pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the grade in which the member is so transferred (determined based upon the rates of basic pay applicable on the date of the member’s transfer), and that amount shall be used for the purposes of the table in subsection (a) rather than the amount computed under section 1406(d) of this title.”.

(3) Section 8991 of such title is amended by adding at the end the following new subsection:

“(c) SPECIAL RULE FOR RETIRED RESERVE ENLISTED MEMBERS COVERED BY SECTION 8963.—In the case of a Reserve enlisted member retired under section 8914 of this title whose retired grade is determined under section 8963 of this title and who first became a member of a uniformed service before September 8, 1980, the retired pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the member’s retired grade (determined based upon the rates of basic pay applicable on the date of the member’s retirement), and that amount shall be used for the purposes of subsection (a)(1)(A) rather than the amount computed under section 1406(e) of this title.”.

#### SEC. 533. AUTHORITY FOR A RESERVE ON ACTIVE DUTY TO WAIVE RETIREMENT SANCTUARY.

Section 12686 of title 10, United States Code, is amended—

(1) by inserting “(a) LIMITATION.—” before “Under regulations”; and

(2) by adding at the end the following:

“(b) WAIVER.—With respect to a member of a reserve component who is to be ordered to active duty (other than for training) under section 12301 of this title pursuant to an order to active duty that specifies a period of less than 180 days and who (but for this subsection) would be covered by subsection (a), the Secretary

concerned may require, as a condition of such order to active duty, that the member waive the applicability of subsection (a) to the member for the period of active duty covered by that order. In carrying out this subsection, the Secretary concerned may require that a waiver under the preceding sentence be executed before the period of active duty begins.”.

**SEC. 534. ELIGIBILITY OF RESERVES FOR DISABILITY RETIREMENT.**

Paragraph (2) of section 1204 of title 10, United States Code, is amended to read as follows:

“(2) the disability is the proximate result of, or was incurred in line of duty after the date of the enactment of this Act as a result of—

“(A) performing active duty or inactive-duty training;

“(B) traveling directly to or from the place at which such duty is performed; or

“(C) an injury, illness, or disease incurred or aggravated while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive duty training, if the site is outside reasonable commuting distance of the member’s residence;”.

## **Subtitle E—Other Reserve Component Matters**

**SEC. 541. TRAINING FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.**

Subsection (b) of section 12310 of title 10, United States Code, is amended to read as follows:

“(b) A Reserve on active duty as described in subsection (a) may be provided training consistent with training provided to other members on active duty, as the Secretary concerned sees fit.”.

**SEC. 542. ELIGIBILITY FOR ENROLLMENT IN READY RESERVE MOBILIZATION INCOME INSURANCE PROGRAM.**

Section 12524 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(g) MEMBERS OF INDIVIDUAL READY RESERVE.—Notwithstanding any other provision of this section, and pursuant to regulations issued by the Secretary, a member of the Individual Ready Reserve who becomes a member of the Selected Reserve shall not be denied eligibility to purchase insurance under this chapter upon becoming a member of the Selected Reserve unless the member previously declined to enroll in the program of insurance under this chapter while a member of the Selected Reserve.”.

Regulations.

**SEC. 543. RESERVE CREDIT FOR PARTICIPATION IN HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.**

(a) CREDIT AUTHORIZED.—Section 2126 of title 10, United States Code, is amended—

(1) by striking out “Service performed” and inserting in lieu thereof “(a) SERVICE NOT CREDITABLE.—Except as provided in subsection (b), service performed”; and

(2) by adding at the end the following:

“(b) SERVICE CREDITABLE FOR CERTAIN PURPOSES.—(1) The Secretary concerned may authorize service performed by a member of the program in pursuit of a course of study under this subchapter to be counted in accordance with this subsection if the member—

“(A) completes the course of study;

“(B) completes the active duty obligation imposed under section 2123(a) of this title; and

“(C) possesses a specialty designated by the Secretary concerned as critically needed in wartime.

“(2) Service credited under paragraph (1) counts only for the following purposes:

“(A) Award of retirement points for computation of years of service under section 12732 of this title and for computation of retired pay under section 12733 of this title.

“(B) Computation of years of service creditable under section 205 of title 37.

“(3) For purposes of paragraph (2)(A), a member may be credited in accordance with paragraph (1) with not more than 50 points for each year of participation in a course of study that the member satisfactorily completes as a member of the program.

“(4) Service may not be counted under paragraph (1) for more than four years of participation in a course of study as a member of the program.

“(5) A member is not entitled to any retroactive award of, or increase in, pay or allowances under title 37 by reason of an award of service credit under paragraph (1).”

(b) AWARD OF RETIREMENT POINTS.—(1) Section 12732(a)(2) of such title is amended—

(A) by inserting after clause (C) the following:

“(D) Points credited for the year under section 2126(b) of this title.”; and

(B) in the matter following clause (D), as inserted by paragraph (1), by striking out “and (C)” and inserting in lieu thereof “(C), and (D)”.

(2) Section 12733(3) of such title is amended by striking out “or (C)” and inserting in lieu thereof “(C), or (D)”.

#### SEC. 544. AMENDMENTS TO RESERVE OFFICER PERSONNEL MANAGEMENT ACT PROVISIONS.

(a) SERVICE REQUIREMENT FOR RETIREMENT IN HIGHEST GRADE HELD.—Section 1370(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) in paragraph (2)(A), by striking out “(A)”;

(3) by redesignating paragraph (2)(B) as paragraph (3); and

(4) in paragraph (3), as so redesignated—

(A) by designating the first sentence as subparagraph (A);

(B) by designating the second sentence as subparagraph (B);

(C) in subparagraph (B), as so redesignated, by striking out “the preceding sentence” and inserting in lieu thereof “subparagraph (A)”;

(D) by adding at the end the following:

“(C) If a person covered by subparagraph (A) has completed at least six months of satisfactory service in grade, the person

was serving in that grade while serving in a position of adjutant general required under section 314 of title 32 or while serving in a position of assistant adjutant general subordinate to such a position of adjutant general, and the person has failed to complete three years of service in that grade solely because the person's appointment to such position has been terminated or vacated as described in section 324(b) of such title, then such person may be credited with satisfactory service in that grade, notwithstanding the failure to complete three years of service in that grade.

“(D) To the extent authorized by the Secretary of the military department concerned, a person who, after having been recommended for promotion in a report of a promotion board but before being promoted to the recommended grade, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while in the next lower grade. The period credited may not include any period before the date on which the Senate provides advice and consent for the appointment of that person in the recommended grade.

“(E) To the extent authorized by the Secretary of the military department concerned, a person who, after having been extended temporary Federal recognition as a reserve officer of the Army National Guard in a particular grade under section 308 of title 32 or temporary Federal recognition as a reserve officer of the Air National Guard in a particular grade under such section, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while extended the temporary Federal recognition, but only if the person was subsequently extended permanent Federal recognition as a reserve officer in that grade and also served in that position after being extended the permanent Federal recognition.”.

(b) EXCEPTION TO REQUIREMENT FOR RETENTION OF RESERVE OFFICERS UNTIL COMPLETION OF REQUIRED SERVICE.—Section 12645(b)(2) of such title is amended by inserting “or a reserve active-status list” after “active-duty list”.

(c) TECHNICAL CORRECTION.—Section 14314(b)(2)(B) of such title is amended by striking out “of the Air Force”.

**SEC. 545. REPORT ON NUMBER OF ADVISERS IN ACTIVE COMPONENT SUPPORT OF RESERVES PILOT PROGRAM.**

(a) REPORT ON NUMBER OF ACTIVE COMPONENT ADVISERS.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the Secretary's determination as to the appropriate number of active component personnel to be assigned to serve as advisers to reserve components under section 414 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 12001 note). If the Secretary's determination is that such number should be a number other than the required minimum number in effect under subsection (c) of such section, the Secretary shall include in the report an explanation providing the Secretary's justification for the number recommended.

(b) **TECHNICAL AMENDMENT.**—Section 414(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 12001 note) is amended by striking out “During fiscal years 1992 and 1993, the Secretary of the Army shall institute” and inserting in lieu thereof “The Secretary of the Army shall carry out”.

**SEC. 546. SENSE OF CONGRESS AND REPORT REGARDING REEMPLOYMENT RIGHTS FOR MOBILIZED RESERVISTS EMPLOYED IN FOREIGN COUNTRIES.**

(a) **SENSE OF CONGRESS.**—Congress is concerned about the lack of reemployment rights afforded Reserve component members who reside in foreign countries and either work for United States companies that maintain offices or operations in foreign countries or work for foreign employers. Being outside the jurisdiction of the United States, these employers are not subject to the provisions of chapter 43 of title 38, United States Code, known as the Uniformed Services Employment and Reemployment Rights Act (USERRA). The purpose of that Act is to provide statutory employment protections that include reinstatement, seniority, status, and rate of pay coverage for Reservists who are ordered to active duty for a specified period of time, including involuntary active duty in support of an operational contingency. While most Reserve members are afforded the protections of that Act (which covers reemployment rights in their civilian jobs upon completion of military service), approximately 2,000 members of the Selected Reserve reside outside the United States and its territories and, not being guaranteed the job protection envisioned by the USERRA, are potentially subject to reemployment problems after release from active duty. This situation poses a continuing personnel management challenge for the reserve components.

(b) **RECOGNITION OF PROBLEM.**—Congress, while recognizing that foreign governments and companies located abroad, not being within the jurisdiction of the United States, cannot be required to comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act, also recognizes that there is a need to provide assistance to Reservists in the situation described in subsection (a), both in the near term and the long term.

(c) **REPORT REQUIREMENT.**—Not later than April 1, 1997, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that sets forth recommended actions to help alleviate reemployment problems for Reservists who are employed outside the United States and its territories by United States companies that maintain offices or operations in foreign countries or by foreign employers. The report shall include recommendations on the assistance and support that may be required by other organizations of the Government, including the Defense Attaché Offices, the Department of Labor, and the Department of State. The report shall be prepared in consultation with the Secretary of State and the Secretary of Labor.

**SEC. 547. PAYMENT OF PREMIUMS UNDER MOBILIZATION INCOME INSURANCE PROGRAM.**

Section 12527(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting “of the Selected Reserve” after “a member”; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

“(2) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations which specify the procedures for payment of premiums by members of the Individual Ready Reserve and other members who do not receive pay on a monthly basis.”. Regulations.

## Subtitle F—Officer Education Programs

### SEC. 551. OVERSIGHT AND MANAGEMENT OF SENIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.

(a) ENROLLMENT PRIORITY TO BE CONSISTENT WITH PURPOSE OF PROGRAM.—(1) Section 2103 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) An educational institution at which a unit of the program has been established shall give priority for enrollment in the program to students who are eligible for advanced training under section 2104 of this title.”.

(2) Section 2109 of such title is amended by adding at the end the following new subsection:

“(c)(1) A person who is not qualified for, and (as determined by the Secretary concerned) will not be able to become qualified for, advanced training by reason of one or more of the requirements prescribed in paragraphs (1) through (3) of section 2104(b) of this title shall not be permitted to participate in—

“(A) field training or a practice cruise under section 2106(b)(6) of this title; or

“(B) practical military training under subsection (a).

“(2) The Secretary of the military department concerned may waive the limitation in paragraph (1) under procedures prescribed by the Secretary. Such procedures shall ensure uniform application of limitations and restrictions without regard to the reason for disqualification for advanced training.”.

(b) WEAR OF THE MILITARY UNIFORM.—Section 772(h) of such title is amended by inserting before the period at the end the following: “if the wear of such uniform is specifically authorized under regulations prescribed by the Secretary of the military department concerned”.

### SEC. 552. PROHIBITION ON REORGANIZATION OF ARMY ROTC CADET COMMAND OR TERMINATION OF SENIOR ROTC UNITS PENDING REPORT ON ROTC.

(a) PROHIBITION.—(1) The Secretary of the Army may not reorganize or restructure the Reserve Officers Training Corps Cadet Command, and may not terminate any Senior Reserve Officer Training Corps unit identified in the document referred to in paragraph (2), until 180 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the report described in subsection (b). Reports.

(2) The document referred to in paragraph (1) is the Department of Defense document dated May 20, 1996, entitled “Information for Members of Congress concerning Senior Reserve Officer Training Corps (ROTC) Unit Closures”.

- (b) **REPORT CONTENTS.**—The report referred to in subsection (a) is a report by the Secretary of the Army in which the Secretary—
- (1) describes the selection process used to identify the Reserve Officer Training Corps units of the Army to be terminated;
  - (2) lists the criteria used by the Army to select Reserve Officer Training Corps units for termination;
  - (3) sets forth the specific ranking of each unit of the Reserve Officer Training Corps of the Army to be terminated as against all other such units;
  - (4) sets forth the authorized and actual cadre staffing of each such unit for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;
  - (5) sets forth the production goals and performance evaluations of each such unit for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;
  - (6) describes how cadets currently enrolled in the units referred to in paragraph (5) will be accommodated after the closure of such units;
  - (7) describes the incentives to enhance the Reserve Officer Training Corps program that are provided by each of the colleges on the closure list;
  - (8) includes the projected officer accession plan by source of commission for the active-duty Army, the Army Reserve, and the Army National Guard; and
  - (9) describes whether the closure of any ROTC unit will adversely affect the recruitment of minority officer candidates.

**SEC. 553. PILOT PROGRAM TO TEST EXPANSION OF ROTC PROGRAM TO INCLUDE GRADUATE STUDENTS.**

(a) **TEST PROGRAM.**—Section 2107(c) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

“(2) The Secretary of Defense shall authorize the Secretaries of the military departments to carry out a test program to determine the desirability of enabling graduate students to participate in the financial assistance program under this section. As part of such test program, the Secretary of a military department may provide financial assistance, as described in paragraph (1), to a student enrolled in an advanced education program beyond the baccalaureate degree level if the student also is a cadet or midshipman in an advanced training program. Not more than 15 percent of the total number of scholarships awarded under this section in any year may be awarded under the test program. No scholarship may be awarded under the test program after September 30, 1999.”

(b) **AUTHORITY TO ENROLL IN ADVANCED TRAINING PROGRAM.**—Paragraph (3) of section 2101 of title 10, United States Code, is amended by inserting “students enrolled in an advanced education program beyond the baccalaureate degree level or to” after “instruction offered in the Senior Reserve Officers’ Training Corps to”.

(c) **REPORT TO CONGRESS.**—Not later than December 31, 1998, the Secretary of Defense shall submit to Congress a report on the experience to that date under the test program authorized under the amendment made by subsection (a)(2). The report shall include the Secretary’s assessment of the effect of the test program



on the Senior ROTC program and the Secretary's recommendation as to whether the authority under the test program should be made permanent.

**SEC. 554. DEMONSTRATION PROJECT FOR INSTRUCTION AND SUPPORT OF ARMY ROTC UNITS BY MEMBERS OF THE ARMY RESERVE AND NATIONAL GUARD.**

10 USC 2111  
note.

(a) **DEMONSTRATION PROJECT REQUIRED.**—The Secretary of the Army shall carry out a demonstration project in order to assess the feasibility and advisability of providing instruction and similar support to units of the Senior Reserve Officers' Training Corps of the Army through members of the Army Reserve (including members of the Individual Ready Reserve) and members of the Army National Guard.

(b) **PROJECT REQUIREMENTS.**—(1) The Secretary shall carry out the demonstration project at at least one institution of higher education.

(2) In order to enhance the value of the project, the Secretary may take actions to ensure that members of the Army Reserve and the Army National Guard provide instruction and support under the project in a variety of innovative ways.

(c) **INAPPLICABILITY OF LIMITATION ON RESERVES IN SUPPORT OF ROTC.**—The assignment of a member of the Army Reserve or the Army National Guard to provide instruction or support under the demonstration project shall not be treated as an assignment of the member to duty with a unit of a Reserve Officer Training Corps program for purposes of section 12321 of title 10, United States Code.

(d) **REPORTS TO CONGRESS.**—Not later than February 1 in each of 1998 and 1999, the Secretary shall submit to Congress a report assessing the activities under the demonstration project during the preceding year. The report submitted in 1999 shall include the Secretary's recommendation as to the advisability of continuing or expanding the authority for the project.

(e) **TERMINATION.**—The authority of the Secretary to carry out the demonstration project shall expire three years after the date of the enactment of this Act.

**SEC. 555. EXTENSION OF MAXIMUM AGE FOR APPOINTMENT AS A CADET OR MIDSHIPMAN IN THE SENIOR RESERVE OFFICERS' TRAINING CORPS AND THE SERVICE ACADEMIES.**

(a) **SENIOR RESERVE OFFICERS' TRAINING CORPS.**—Sections 2107(a) and 2107a(a) of title 10, United States Code, are amended—

(1) by striking out "25 years of age" and inserting in lieu thereof "27 years of age"; and

(2) by striking out "29 years of age" and inserting in lieu thereof "30 years of age".

(b) **UNITED STATES MILITARY ACADEMY.**—Section 4346(a) of such title is amended by striking out "twenty-second birthday" and inserting in lieu thereof "twenty-third birthday".

(c) **UNITED STATES NAVAL ACADEMY.**—Section 6958(a)(1) of such title is amended by striking out "twenty-second birthday" and inserting in lieu thereof "twenty-third birthday".

(d) **UNITED STATES AIR FORCE ACADEMY.**—Section 9346(a) of such title is amended by striking out "twenty-second birthday" and inserting in lieu thereof "twenty-third birthday".

**SEC. 556. EXPANSION OF ELIGIBILITY FOR EDUCATION BENEFITS TO INCLUDE CERTAIN RESERVE OFFICERS' TRAINING CORPS (ROTC) PARTICIPANTS.**

(a) **ACTIVE DUTY SERVICE.**—Section 3011(c) of title 38, United States Code, is amended—

(1) by striking out “or upon completion of a program of educational assistance under section 2107 of title 10” in paragraph (2); and

(2) by adding at the end the following:

“(3) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section if the individual enters on active duty—

“(A) before October 1, 1996; or

“(B) after September 30, 1996, and while participating in such program received more than \$2,000 for each year of such participation.”

(b) **SELECTED RESERVE.**—Section 3012(d) of title 38, United States Code, is amended—

(1) by striking out “or upon completion of a program of educational assistance under section 2107 of title 10” in paragraph (2); and

(2) by adding at the end the following:

“(3) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section if the individual enters on active duty—

“(A) before October 1, 1996; or

“(B) after September 30, 1996, and while participating in such program received more than \$2,000 for each year of such participation.”

**SEC. 557. COMPTROLLER GENERAL REPORT ON COST AND POLICY IMPLICATIONS OF PERMITTING UP TO FIVE PERCENT OF SERVICE ACADEMY GRADUATES TO BE ASSIGNED DIRECTLY TO RESERVE DUTY UPON GRADUATION.**

(a) **REPORT REQUIRED.**—The Comptroller General of the United States shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report providing an analysis of the cost implications, and the policy implications, of permitting up to five percent of each graduating class of each of the service academies to be placed, upon graduation and commissioning, in an active status in the appropriate reserve component (without a minimum period of obligated active duty service), with a corresponding increase in the number of ROTC graduates each year who are permitted to serve on active duty upon commissioning.

(b) **INFORMATION ON CURRENT ACADEMY GRADUATES IN RESERVE COMPONENTS.**—The Comptroller General shall include in the report information (shown in the aggregate and separately for each of the Armed Forces and for graduates of each service academy) on—

(1) the number of academy graduates who at the time of the report are serving in an active status in a reserve component; and

(2) within the number under paragraph (1), the number for each reserve component and, of those, the number within each reserve component who are on active duty under section 12301(d) of title 10, United States Code, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

(c) **SUBMISSION OF REPORT.**—The report shall be submitted not later than six months after the date of the enactment of this Act.

(d) **SERVICE ACADEMIES.**—For purposes of this section, the term “service academies” means—

- (1) the United States Military Academy;
- (2) the United States Naval Academy; and
- (3) the United States Air Force Academy.

## Subtitle G—Decorations and Awards

### SEC. 561. AUTHORITY FOR AWARD OF MEDAL OF HONOR TO CERTAIN AFRICAN AMERICAN SOLDIERS WHO SERVED DURING WORLD WAR II.

(a) **INAPPLICABILITY OF TIME LIMITATIONS.**—Notwithstanding the time limitations in section 3744(b) of title 10, United States Code, or any other time limitation, the President may award the Medal of Honor to the persons specified in subsection (b), each of whom has been found by the Secretary of the Army to have distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving in the United States Army during World War II.

(b) **PERSONS ELIGIBLE TO RECEIVE THE MEDAL OF HONOR.**—The persons referred to in subsection (a) are the following:

- |  |                     |
|--|---------------------|
| (1) Vernon J. Baker, who served as a first lieutenant in the 370th Infantry Regiment, 92nd Infantry Division.          | Vernon J. Baker.    |
| (2) Edward A. Carter, who served as a staff sergeant in the 56th Armored Infantry Battalion, Twelfth Armored Division. | Edward A. Carter.   |
| (3) John R. Fox, who served as a first lieutenant in the 366th Infantry Regiment, 92nd Infantry Division.              | John R. Fox.        |
| (4) Willy F. James, Jr., who served as a private first class in the 413th Infantry Regiment, 104th Infantry Division.  | Willy F. James, Jr. |
| (5) Ruben Rivers, who served as a staff sergeant in the 761st Tank Battalion.  | Ruben Rivers.       |
| (6) Charles L. Thomas, who served as a first lieutenant in the 614th Tank Destroyer Battalion.                         | Charles L. Thomas.  |
| (7) George Watson, who served as a private in the 29th Quartermaster Regiment.   | George Watson.      |

(c) **POSTHUMOUS AWARD.**—The Medal of Honor may be awarded under this section posthumously, as provided in section 3752 of title 10, United States Code.

(d) **PRIOR AWARD.**—The Medal of Honor may be awarded under this section for service for which a Distinguished-Service Cross, or other award, has been awarded.

### SEC. 562. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO SPECIFIED PERSONS.

(a) **WAIVER OF TIME LIMITATION.**—Any limitation established by law or policy for the time within which a recommendation

for the award of a military decoration or award must be submitted shall not apply in the case of awards of decorations as described in subsection (b), the award of each such decoration having been determined by the Secretary of the Navy to be warranted in accordance with section 1130 of title 10, United States Code.

(b) **DISTINGUISHED FLYING CROSS.**—Subsection (a) applies to awards of the Distinguished Flying Cross for service during World War II as follows:

(1) **FIRST AWARD.**—First award, for completion of at least 20 qualifying combat missions, to the following members and former members of the Armed Forces:

Vernard V. Aiken of Wilmington, Vermont.  
Ira V. Babcock of Dothan, Georgia.  
George S. Barlow of Grafton, Virginia.  
Earl A. Bratton of Bodega Bay, California.  
Travis C. Cork of Leesburg, Florida.  
Herman C. Edwards of Johns Island, South Carolina.  
Norman J. Ehr of Kiel, Wisconsin.  
James M. Fitzgerald of Anchorage, Alaska.  
Raymond C. Gordon of Sherborn, Massachusetts.  
Paul L. Hitchcock of Raleigh, North Carolina.  
Harold H. Hottle of Hillsboro, Ohio.  
Samuel M. Keith of Anderson, South Carolina.  
Stanley J. Ksiadz of Cheektowaga, New York.  
Otis Lancaster of Wyoming, Michigan.  
Robert W. Lorette of Wilton, New Hampshire.  
John B. McCabe of Biglerville, Pennsylvania.  
James P. Merriman of Midland, Texas.  
The late Michael L. Michalak, formerly of Akron, New York.  
The late Edward J. Naparkowsky, formerly of Hartford, Connecticut.

Pete G. Nicora of Warren, Ohio.  
Stanley J. Orłowski of Jackson, Michigan.  
Raymond A. Peischl of Allentown, Pennsylvania.  
A. Jerome Pfeiffer of Racine, Wisconsin.  
Duane L. Rhodes of Earp, California.  
Frank V. Roach of Bloomfield, New Jersey.  
Arnold V. Rosekrans of Horseheads, New York.  
Joseph E. Seaman, Jr. of Bordentown, New Jersey.  
Richard F. Shumaker of Hilliard, Ohio.  
Luther E. Thomas of Panama City, Florida.  
Merton S. Ward of South Hamilton, Massachusetts.  
Simon L. Webb of Magnolia, Mississippi.  
Jerry W. Webster of Leander, Texas.

(2) **SECOND AWARD.**—Second award, for completion of at least 40 qualifying combat missions, to the following members and former members of the Armed Forces:

Arthur C. Adair of Grants Pass, Oregon.  
Robert B. Carnes of West Yarmouth, Massachusetts.  
Daniel K. Connors of Hampton, New Hampshire.  
Glen E. Danielson of Whittier, California.  
Ralph J. Deceuster of Dover, Ohio.  
Albert P. Emsley of Bothell, Washington.  
Urbain J. Fournier of Houma, Louisiana.  
Prescott C. Jernegan of Hemet, California.  
Stephen K. Johnson of Englewood, Florida.

Warren E. Johnson of Vista, California.  
Elbert J. Kimble of San Francisco, California.  
George W. Knauff of Monument, Colorado.  
John W. Lincoln of Rockland, Massachusetts.  
Alan D. Marker of Sonoma, California.  
Joseph J. Oliver of White Haven, Pennsylvania.  
Sheffield Phelps of Seattle, Washington.  
John B. Tagliapiri of St. Helena, California.  
Dewilles A.H.W. Schwartz of Watertown, South  
Dakota.

Ray B. Stiltner of Centralia, Washington.

(3) **THIRD AWARD.**—Third award, for completion of at least 60 qualifying combat missions, to the following members and former members of the Armed Forces:

Glenn Bowers of Dillsburg, Pennsylvania.  
Arthur C. Casey of Irving, California.  
Robert J. Larsen of Gulf Breeze, Florida.  
David Mendoza of McAllen, Texas.  
William A. Nickerson of Portland, Oregon.  
Maurice F. Smith of Sequim, Washington.

(4) **FOURTH AWARD.**—Fourth award, for completion of at least 80 qualifying combat missions, to the following members and former members of the Armed Forces:

Robert Bair of Ontario, California.  
Arvid L. Kretz of Santa Rosa, California.  
George E. McClane of Cocoa Beach, Florida.  
Orville R. Swick of Issaquah, Washington.

(5) **FIFTH AWARD.**—Fifth award, for completion of at least 100 qualifying combat missions, to the following members and former members of the Armed Forces:

William A. Baldwin of San Clemente, California.  
George Bobb of Blackwood, New Jersey.  
John R. Conrad of Hot Springs, Arkansas.  
Herbert R. Hetrick of Roaring Springs, Pennsylvania.  
William L. Wells of Cordele, Georgia.

(6) **SIXTH AWARD.**—Sixth award, for completion of at least 120 qualifying combat missions, to Richard L. Murray of Dallas, Texas.

#### **SEC. 563. REPLACEMENT OF CERTAIN AMERICAN THEATER CAMPAIGN RIBBONS.**

(a) **REPLACEMENT RIBBONS.**—The Secretary of the Army, pursuant to section 3751 of title 10, United States Code, may replace any World War II decoration known as the American Theater Campaign Ribbon that was awarded to a person listed in the order described in subsection (b).

(b) **RIBBONS PROPERLY AWARDED.**—Any person listed in the document titled “General Order Number 1”, issued by the Third Auxiliary Surgical Group, APO 647, United States Army, dated February 1, 1943, shall be considered to have been properly awarded the American Theater Campaign Ribbon for service during World War II.

## Subtitle H—Other Matters

10 USC 113 note. SEC. 571. HATE CRIMES IN THE MILITARY.

(a) HUMAN RELATIONS TRAINING.—(1) The Secretary of Defense shall ensure that the Secretary of each military department conducts ongoing programs for human relations training for all members of the Armed Forces under the jurisdiction of the Secretary. Matters to be covered by such training include race relations, equal opportunity, opposition to gender discrimination, and sensitivity to “hate group” activity. Such training shall be provided during basic training (or other initial military training) and on a regular basis thereafter.

(2) The Secretary of Defense shall also ensure that unit commanders are aware of their responsibilities in ensuring that impermissible activity based upon discriminatory motives does not occur in units under their command.

(b) INFORMATION TO BE PROVIDED TO PROSPECTIVE RECRUITS.—The Secretary of Defense shall ensure that each individual preparing to enter an officer accession program or to execute an original enlistment agreement is provided information concerning the meaning of the oath of office or oath of enlistment for service in the Armed Forces in terms of the equal protection and civil liberties guarantees of the Constitution, and each such individual shall be informed that if supporting those guarantees is not possible personally for that individual, then that individual should decline to enter the Armed Forces.

(c) ANNUAL SURVEY.—(1) Section 451 of title 10, United States Code, is amended to read as follows:

**“§ 451. Race relations, gender discrimination, and hate group activity: annual survey and report**

“(a) ANNUAL SURVEY.—The Secretary of Defense shall carry out an annual survey to measure the state of racial, ethnic, and gender issues and discrimination among members of the Armed Forces serving on active duty and the extent (if any) of activity among such members that may be seen as so-called ‘hate group’ activity. The survey shall solicit information on the race relations and gender relations climate in the Armed Forces, including—

“(1) indicators of positive and negative trends of relations among all racial and ethnic groups and between the sexes;

“(2) the effectiveness of Department of Defense policies designed to improve race, ethnic, and gender relations; and

“(3) the effectiveness of current processes for complaints on and investigations into racial, ethnic, and gender discrimination.

“(b) IMPLEMENTING ENTITY.—The Secretary shall carry out each annual survey through the entity in the Department of Defense known as the Armed Forces Survey on Race/Ethnic Issues.

“(c) REPORTS TO CONGRESS.—Upon completion of each annual survey under subsection (a), the Secretary shall submit to Congress a report containing the results of the survey.”

(2) The item relating to such section in the table of sections at the beginning of chapter 22 of such title is amended to read as follows:

“451. Race relations, gender discrimination, and hate group activity: annual survey and report.”

**SEC. 572. DISABILITY COVERAGE FOR MEMBERS GRANTED EXCESS LEAVE FOR EDUCATIONAL OR EMERGENCY PURPOSES.**

(a) **ELIGIBILITY FOR RETIREMENT.**—Section 1201 of title 10, United States Code, is amended—

(1) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

“(a) **RETIREMENT.**—Upon a determination by the Secretary concerned that a member described in subsection (c) is unfit to perform the duties of the member’s office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in subsection (c)(3), the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).”

“(b) **REQUIRED DETERMINATIONS OF DISABILITY.**—Determinations referred to in subsection (a) are determinations by the Secretary that—”; and

(2) by adding at the end the following:

“(c) **ELIGIBLE MEMBERS.**—This section and sections 1202 and 1203 of this title apply to the following members:

“(1) A member of a regular component of the armed forces entitled to basic pay.

“(2) Any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days.

“(3) Any other member of the armed forces who is on active duty but is not entitled to basic pay by reason of section 502(b) of title 37 due to authorized absence (A) to participate in an educational program, or (B) for an emergency purpose, as determined by the Secretary concerned.”

(b) **ELIGIBILITY FOR PLACEMENT ON TEMPORARY DISABILITY RETIREMENT LIST.**—Section 1202 of title 10, United States Code, is amended by striking out “a member of a regular component” and all that follows through “more than 30 days,” and inserting in lieu thereof “a member described in section 1201(c) of this title”.

(c) **ELIGIBILITY FOR SEPARATION.**—Section 1203 of title 10, United States Code, is amended by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

“(a) **SEPARATION.**—Upon a determination by the Secretary concerned that a member described in section 1201(c) of this title is unfit to perform the duties of the member’s office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in section 1201(c)(3) of this title, the member may be separated from the member’s armed force, with severance pay computed under section 1212 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).”

“(b) **REQUIRED DETERMINATIONS OF DISABILITY.**—Determinations referred to in subsection (a) are determinations by the Secretary that—”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to physical disabilities incurred on or after such date.

Applicability.  
10 USC 1201  
note.

**SEC. 573. CLARIFICATION OF AUTHORITY OF A RESERVE JUDGE ADVOCATE TO ACT AS A MILITARY NOTARY PUBLIC WHEN NOT IN A DUTY STATUS.**

Section 1044a(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out “on active duty or performing inactive-duty training” and inserting in lieu thereof “, including reserve judge advocates when not in a duty status”;

(2) in paragraph (3), by striking out “adjutants on active duty or performing inactive-duty training” and inserting in lieu thereof “adjutants, including reserve members when not in a duty status”; and

(3) in paragraph (4), by striking out “persons on active duty or performing inactive-duty training” and inserting in lieu thereof “members of the armed forces, including reserve members when not in a duty status,”.

**SEC. 574. PANEL ON JURISDICTION OF COURTS-MARTIAL FOR THE NATIONAL GUARD WHEN NOT IN FEDERAL SERVICE.**

(a) **ESTABLISHMENT.**—The Secretary of Defense shall establish a panel to review the various authorities for court-martial and nonjudicial punishment jurisdiction for the National Guard not in Federal service and the use of those authorities.

(b) **MEMBERSHIP.**—The Secretary shall appoint the members of the panel so as to ensure representation of the following:

(1) The State Adjutants General of the National Guard.

(2) The State Attorneys General.

(3) The Joint Service Committee on Military Justice of the Department of Defense.

(c) **DUTIES.**—Matters reviewed by the panel shall include the following:

(1) The extent of the use of court-martial and nonjudicial punishment authority for the National Guard not in Federal service.

(2) The extent to which the authority used is—

(A) authority under title 32, United States Code; or

(B) authority under State law.

(d) **REPORT.**—(1) Not later than February 1, 1997, the panel shall submit a report on the panel's findings and conclusions to the Secretary of Defense.

(2) The report shall include recommended legislation for amending title 32, United States Code—

(A) to increase the uniformity in State use of courts-martial and nonjudicial punishment for the National Guard when not in Federal service; and

(B) to achieve increased comparability between the court-martial and nonjudicial punishment procedures that are applicable to the National Guard not in Federal service and the court-martial and nonjudicial punishment procedures that are applicable under the Uniform Code of Military Justice to the National Guard in Federal service.

(e) **SUBMISSION OF REPORT TO CONGRESS.**—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress the report of the panel under subsection (d) together with the views of the Secretary regarding the report and the matters covered in the report.



**SEC. 575. AUTHORITY TO EXPAND LAW ENFORCEMENT PLACEMENT PROGRAM TO INCLUDE FIREFIGHTERS.**

Section 1152(g) of title 10, United States Code, is amended—

(1) by striking out “(g) CONDITIONAL EXPANSION OF PLACEMENT TO INCLUDE FIREFIGHTERS.—(1) Subject to paragraph (2), the” and inserting in lieu thereof “(g) AUTHORITY TO EXPAND PLACEMENT TO INCLUDE FIREFIGHTERS.—The”; and

(2) in paragraph (2)—

(A) by striking out the first sentence; and

(B) in the second sentence, by inserting “authorized by this subsection” after “expansion”.

**SEC. 576. IMPROVEMENTS TO PROGRAM TO ASSIST SEPARATED MILITARY AND CIVILIAN PERSONNEL TO OBTAIN EMPLOYMENT AS TEACHERS OR TEACHERS’ AIDES.**

(a) PROGRAM FOR SEPARATED MEMBERS.—(1) Section 1151 of title 10, United States Code, is amended—

(A) in subsection (f)(2), by striking out “five school years” in subparagraphs (A) and (B) and inserting in lieu thereof “two school years”; and

(B) in subsection (h)(3)(A), by striking out “five consecutive school years” and inserting in lieu thereof “two consecutive school years”.

(2) Subsection (g)(2) of such section is amended—

(A) by striking out the comma after “section 1174a of this title” and inserting in lieu thereof “or”; and

(B) by striking out “, or retires pursuant to the authority provided in section 4403 of the National Defense Authorization Act for fiscal year 1993 (Public Law 102-484; 10 U.S.C. 1293 note)”.

(3) Subsection (h)(3)(B) of such section is amended—

(A) in clause (i), by striking out “\$25,000” and inserting in lieu thereof “\$17,000”; and

(B) in clause (ii)—

(i) by striking out “40 percent” and inserting in lieu thereof “25 percent”; and

(ii) by striking out “\$10,000” and inserting in lieu thereof “\$8,000”; and

(C) by striking out clauses (iii), (iv), and (v).

(b) SEPARATED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.—Section 1598(d)(2) of such title is amended by striking out “five school years” in subparagraphs (A) and (B) and inserting in lieu thereof “two school years”.

(c) DISPLACED DEPARTMENT OF DEFENSE CONTRACTOR EMPLOYEES.—Section 2410j(f)(2) of such title is amended by striking out “five school years” in subparagraphs (A) and (B) and inserting in lieu thereof “two school years”.

(d) SAVINGS PROVISION.—The amendments made by this section do not affect obligations under agreements entered into in accordance with section 1151, 1598, or 2410j of title 10, United States Code, before the date of the enactment of this Act.

10 USC 1151  
note.

**SEC. 577. RETIREMENT AT GRADE TO WHICH SELECTED FOR PROMOTION WHEN A PHYSICAL DISABILITY IS FOUND AT ANY PHYSICAL EXAMINATION.**

Section 1372 of title 10, United States Code, is amended by striking out “his physical examination for promotion” in paragraphs (3) and (4) and inserting in lieu thereof “a physical examination”.

**SEC. 578. REVISIONS TO MISSING PERSONS AUTHORITIES.**

(a) **REPEAL OF APPLICABILITY OF AUTHORITIES TO DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES AND CONTRACTOR EMPLOYEES.**—

(1) Section 1501 of title 10, United States Code, is amended—

(A) in subsection (c)—

(i) by striking out “applies in the case of” and all that follows through “(1) Any member” and inserting in lieu thereof “applies in the case of any member”; and

(ii) by striking out paragraph (2); and

(B) by striking out subsection (f).

(2) Section 1503(c) of such title is amended—

(A) in paragraph (1), by striking out “one individual described in paragraph (2)” and inserting in lieu thereof “one military officer”;

(B) by striking out paragraph (2); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(3) Section 1504(d) of such title is amended—

(A) by striking out the text of paragraph (1) and inserting in lieu thereof the following new text: “A board appointed under this section shall be composed of at least three members who are officers having the grade of major or lieutenant commander or above.”; and

(B) in paragraph (4), by striking out “section 1503(c)(4)” and inserting in lieu thereof “section 1503(c)(3)”.

(4) Paragraph (1) of section 1513 of such title is amended to read as follows:

“(1) The term ‘missing person’ means a member of the armed forces on active duty who is in a missing status.”.

(b) **REPORT ON PRELIMINARY ASSESSMENT OF STATUS.**—(1) Section 1502 of such title is amended—

(A) in subsection (a)(2)—

(i) by striking out “48 hours” and inserting in lieu thereof “10 days”; and

(ii) by striking out “theater component commander with jurisdiction over the missing person” and inserting in lieu thereof “Secretary concerned”;

(B) by striking out subsection (b);

(C) by redesignating subsection (c) as subsection (b); and

(D) in subsection (b), as so redesignated, by striking out the second sentence.

(2) Section 1503(a) of such title is amended by striking out “section 1502(b)” and inserting in lieu thereof “section 1502(a)”.

(3) Section 1513 of such title is amended by striking out paragraph (8).

(c) **FREQUENCY OF SUBSEQUENT REVIEWS.**—Subsection (b) of section 1505 of such title is amended to read as follows:

“(b) **FREQUENCY OF SUBSEQUENT REVIEWS.**—The Secretary concerned shall conduct inquiries into the whereabouts and status of a person under subsection (a) upon receipt of information that

may result in a change of status of the person. The Secretary concerned shall appoint a board to conduct such inquiries.”.

(d) REPEAL OF STATUTORY PENALTIES FOR WRONGFUL WITHHOLDING OF INFORMATION.—Section 1506 of such title is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(e) INFORMATION TO ACCOMPANY RECOMMENDATION OF STATUS OF DEATH.—Section 1507(b) of such title is amended by striking out paragraphs (3) and (4).

(f) SCOPE OF PREENACTMENT REVIEW.—(1) Section 1509 of such title is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2)(A) The heading of such section is amended by striking out “, special interest”.

(B) The item relating to such section in the table of sections at the beginning of chapter 76 of such title is amended by striking out “, special interest”.

## **Subtitle I—Commissioned Corps of the Public Health Service**

### **SEC. 581. APPLICABILITY TO PUBLIC HEALTH SERVICE OF PROHIBITION ON CREDITING CADET OR MIDSHIPMEN SERVICE AT THE SERVICE ACADEMIES.**

(a) PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY.—Subsection (a) of section 971 of title 10, United States Code, is amended by inserting before the period at the end the following: “or an officer in the Commissioned Corps of the Public Health Service”.

(b) PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.—Subsection (b) of such section is amended to read as follows:

“(b) PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.—In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers:

“(1) An officer of the Navy or Marine Corps.

“(2) A commissioned officer of the Army or Air Force.

“(3) An officer of the Coast Guard.

“(4) An officer in the commissioned corps of the Public Health Service.”.

(c) TECHNICAL AMENDMENTS.—(1) Such section is further amended by adding at the end the following new subsection:

“(c) SERVICE AS A CADET OR MIDSHIPMAN DEFINED.—In this section, the term ‘service as a cadet or midshipman’ means—

“(1) service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or

“(2) service as a midshipman at the United States Naval Academy.”.

(2) Subsection (a) of such section is further amended—

(A) by inserting “PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY OR IN NAVAL RESERVE.” after “(a)”; and

may result in a change of status of the person. The Secretary concerned shall appoint a board to conduct such inquiries.”.

(d) **REPEAL OF STATUTORY PENALTIES FOR WRONGFUL WITHHOLDING OF INFORMATION.**—Section 1506 of such title is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(e) **INFORMATION TO ACCOMPANY RECOMMENDATION OF STATUS OF DEATH.**—Section 1507(b) of such title is amended by striking out paragraphs (3) and (4).

(f) **SCOPE OF PREENACTMENT REVIEW.**—(1) Section 1509 of such title is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2)(A) The heading of such section is amended by striking out “, special interest”.

(B) The item relating to such section in the table of sections at the beginning of chapter 76 of such title is amended by striking out “, special interest”.

## **Subtitle I—Commissioned Corps of the Public Health Service**

### **SEC. 581. APPLICABILITY TO PUBLIC HEALTH SERVICE OF PROHIBITION ON CREDITING CADET OR MIDSHIPMEN SERVICE AT THE SERVICE ACADEMIES.**

(a) **PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY.**—Subsection (a) of section 971 of title 10, United States Code, is amended by inserting before the period at the end the following: “or an officer in the Commissioned Corps of the Public Health Service”.

(b) **PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.**—Subsection (b) of such section is amended to read as follows:

“(b) **PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.**—In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers:

“(1) An officer of the Navy or Marine Corps.

“(2) A commissioned officer of the Army or Air Force.

“(3) An officer of the Coast Guard.

“(4) An officer in the commissioned corps of the Public Health Service.”.

(c) **TECHNICAL AMENDMENTS.**—(1) Such section is further amended by adding at the end the following new subsection:

“(c) **SERVICE AS A CADET OR MIDSHIPMAN DEFINED.**—In this section, the term ‘service as a cadet or midshipman’ means—

“(1) service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or

“(2) service as a midshipman at the United States Naval Academy.”.

(2) Subsection (a) of such section is further amended—

(A) by inserting “PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY OR IN NAVAL RESERVE.—” after “(a)”; and

(B) by striking out “while also serving” and all that follows through “Naval Academy or” and inserting in lieu thereof “while also performing service as a cadet or midshipman or serving as a midshipman”.

(3) The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 49 of such title, are amended by striking out the seventh word.

**SEC. 582. EXCEPTION TO STRENGTH LIMITATIONS FOR PUBLIC HEALTH SERVICE OFFICERS ASSIGNED TO THE DEPARTMENT OF DEFENSE.**

Section 206 of the Public Health Service Act (42 U.S.C. 207) is amended by adding at the end the following new subsection:

“(f) In computing the maximum number of commissioned officers of the Public Health Service authorized by law or administrative determination to serve on active duty, there may be excluded from such computation officers who are assigned to duty in the Department of Defense.”.

**SEC. 583. AUTHORITY TO PROVIDE LEGAL ASSISTANCE TO PUBLIC HEALTH SERVICE OFFICERS.**

(a) **LEGAL ASSISTANCE AVAILABLE.**—Subsection (a) of section 1044 of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

“(3) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

“(4) Dependents of members and former members described in paragraphs (1), (2), and (3).”.

(b) **LIMITATION ON ASSISTANCE.**—Subsection (c) of such section is amended—

(1) by striking out “armed forces” and inserting in lieu thereof “uniformed services described in subsection (a)”; and

(2) by inserting “such” after “dependent of”.

(c) **CLARIFYING AMENDMENTS.**—Subsection (a) of such section is further amended by striking out “under his jurisdiction” in paragraphs (1) and (2).

(d) **STYLISTIC AMENDMENTS.**—Subsection (a) of such section is further amended—

(1) in the matter preceding paragraph (1), by striking out “to—” and inserting in lieu thereof “to the following persons.”;

(2) by capitalizing the first letter of the first word of paragraphs (1) and (2);

(3) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period; and

(4) by striking out “; and” at the end of paragraph (2) and inserting in lieu thereof a period.

## **TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS**

### **Subtitle A—Pay and Allowances**

Sec. 601. Military pay raise for fiscal year 1997.

Sec. 602. Adjustment of rate of cadet and midshipman pay.

Sec. 603. Pay of senior noncommissioned officers while hospitalized.

Sec. 604. Availability of basic allowance for quarters for certain members without dependents who serve on sea duty.

- Sec. 605. Uniform applicability of discretion to deny an election not to occupy Government quarters.
- Sec. 606. Establishment of minimum monthly amount of variable housing allowance for high housing cost areas.
- Sec. 607. Family separation allowance for members separated by military orders from spouses who are members.
- Sec. 608. Waiver of time limitations for claim for pay and allowances.

#### **Subtitle B—Bonuses and Special and Incentive Pays**

- Sec. 611. One-year extension of certain bonuses and special pay authorities for Reserve forces.
- Sec. 612. One-year extension of certain bonuses and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists.
- Sec. 613. One-year extension of authorities relating to payment of other bonuses and special pays.
- Sec. 614. Special pay for certain Public Health Service officers.
- Sec. 615. Special incentives to recruit and retain dental officers.
- Sec. 616. Foreign language proficiency pay for Public Health Service and National Oceanic and Atmospheric Administration officers.

#### **Subtitle C—Travel and Transportation Allowances**

- Sec. 621. Allowance in connection with shipping motor vehicle at Government expense.
- Sec. 622. Dislocation allowance at a rate equal to two and one-half months basic allowance for quarters.
- Sec. 623. Allowance for travel performed in connection with leave between consecutive overseas tours.
- Sec. 624. Funding for transportation of household effects of Public Health Service officers.

#### **Subtitle D—Retired Pay, Survivor Benefits, and Related Matters**

- Sec. 631. Effective date for military retiree cost-of-living adjustment for fiscal year 1998.
- Sec. 632. Clarification of initial computation of retiree COLAs after retirement.
- Sec. 633. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.
- Sec. 634. Nonsubstantive restatement of Survivor Benefit Plan statute.
- Sec. 635. Increases in Survivor Benefit Plan contributions to be effective concurrently with payment of retired pay cost-of-living increases.
- Sec. 636. Amendments to the Uniformed Services Former Spouses' Protection Act.
- Sec. 637. Prevention of circumvention of court order by waiver of retired pay to enhance civil service retirement annuity.
- Sec. 638. Administration of benefits for so-called minimum income widows.

#### **Subtitle E—Other Matters**

- Sec. 651. Discretionary allotment of pay, including retired or retainer pay.
- Sec. 652. Reimbursement for adoption expenses incurred in adoptions through private placements.
- Sec. 653. Waiver of recoupment of amounts withheld for tax purposes from certain separation pay.
- Sec. 654. Technical correction clarifying limitation on furnishing clothing or allowances for enlisted National Guard technicians.
- Sec. 655. Technical correction to prior authority for payment of back pay to certain persons.
- Sec. 656. Compensation for persons awarded prisoner of war medal who did not previously receive compensation as a prisoner of war.
- Sec. 657. Payments to certain persons captured and interned by North Vietnam.

### **Subtitle A—Pay and Allowances**

#### **SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1997.**

(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1997 shall not be made.

(b) **INCREASE IN BASIC PAY AND BAS.**—Effective on January 1, 1997, the rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 3.0 percent.

37 USC 1009  
note.

Effective date.

Effective date.

(c) INCREASE IN BAQ.—Effective on January 1, 1997, the rates of basic allowance for quarters of members of the uniformed services are increased by 4.6 percent.

**SEC. 602. ADJUSTMENT OF RATE OF CADET AND MIDSHIPMAN PAY.**

Section 203(c) of title 37, United States Code, is amended—

- (1) by striking out paragraph (2); and
- (2) in paragraph (1), by striking out “(1)”.

**SEC. 603. PAY OF SENIOR NONCOMMISSIONED OFFICERS WHILE HOSPITALIZED.**

(a) PAY DURING HOSPITALIZATION.—Section 210 of title 37, United States Code, is amended—

- (1) by redesignating subsection (b) as subsection (c); and
- (2) by inserting after subsection (a) the following new subsection (b):

“(b) A noncommissioned officer of an armed force who is hospitalized and who, during or immediately before such hospitalization, completed service as the senior enlisted member of that armed force, shall continue to be entitled, for not more than 180 days while so hospitalized, to the rate of basic pay authorized for the senior enlisted member of that armed force.”

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

**“§ 210. Pay of senior enlisted members during terminal leave and while hospitalized”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 3 of title 37, United States Code, is amended to read as follows:

“210. Pay of senior enlisted members during terminal leave and while hospitalized.”

**SEC. 604. AVAILABILITY OF BASIC ALLOWANCE FOR QUARTERS FOR CERTAIN MEMBERS WITHOUT DEPENDENTS WHO SERVE ON SEA DUTY.**

(a) ENTITLEMENT OF SINGLE MEMBERS ABOVE GRADE E-5.—Section 403(c)(2) of title 37, United States Code, is amended—

- (1) by striking out “A member” in the first sentence and inserting in lieu thereof “(A) Except as provided in subparagraphs (B) and (C), a member”; and
- (2) by striking out the second sentence.

(b) ENTITLEMENT OF CERTAIN SINGLE MEMBERS IN GRADE E-5.—Such section is further amended by adding at the end the following new subparagraph:

“(B) Under regulations prescribed by the Secretary concerned, the Secretary may authorize the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is serving in pay grade E-5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grade E-5.”

(c) ENTITLEMENT WHEN BOTH SPOUSES IN GRADES BELOW GRADE E-6 ARE ASSIGNED TO SEA DUTY.—Such section is further amended by inserting after subparagraph (B), as added by subsection (b), the following new subparagraph:

“(C) Notwithstanding section 421 of this title, two members of the uniformed services in a pay grade below pay grade

Regulations.

E-6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are jointly entitled to one basic allowance for quarters during the period of such simultaneous sea duty. The amount of the allowance shall be based on the without dependents rate for the pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are entitled to a basic allowance for quarters under subparagraph (B)."

(d) **CONFORMING AMENDMENT REGARDING VARIABLE HOUSING ALLOWANCE.**—Section 403a(b)(2)(C) of title 37, United States Code, is amended by striking out "E-6" and inserting in lieu thereof "E-4".

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on July 1, 1997. 37 USC 403 note.

**SEC. 605. UNIFORM APPLICABILITY OF DISCRETION TO DENY AN ELECTION NOT TO OCCUPY GOVERNMENT QUARTERS.**

Section 403(b)(3) of title 37, United States Code, is amended by striking out "A member" and inserting in lieu thereof "Subject to the provisions of subsection (j), a member".

**SEC. 606. ESTABLISHMENT OF MINIMUM MONTHLY AMOUNT OF VARIABLE HOUSING ALLOWANCE FOR HIGH HOUSING COST AREAS.**

(a) **MINIMUM MONTHLY AMOUNT OF ALLOWANCE.**—Subsection (c) of section 403a of title 37, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The monthly amount of a variable housing allowance under this section for a member of a uniformed service with respect to an area is equal to the greater of the following amounts:

"(A) An amount equal to the difference between—

"(i) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade and with the same dependency status as that member; and

"(ii) 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade and with the same dependency status as that member.

"(B) An amount equal to the difference between—

"(i) the adequate housing allowance floor determined by the Secretary of Defense for all members of the uniformed services in that area entitled to a variable housing allowance under this section; and

"(ii) the monthly basic allowance for quarters for members of the uniformed services serving in the same pay grade and with the same dependency status as that member."

(b) **ADEQUATE HOUSING ALLOWANCE FLOOR.**—Such subsection is further amended by adding at the end the following new paragraph:

"(7)(A) For purposes of paragraph (1)(B)(i), the Secretary of Defense shall establish an adequate housing allowance floor for members of the uniformed services in an area as a selected percentage, not to exceed 85 percent, of the cost of adequate housing in that area based on an index of housing costs selected by the Secretary of Defense from among the following:



“(i) The fair market rentals established annually by the Secretary of Housing and Urban Development under section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)).

“(ii) An index developed in the private sector that the Secretary of Defense determines is comparable to the fair market rentals referred to in clause (i) and is appropriate for use to determine the adequate housing allowance floor.

“(B) The Secretary of Defense shall carry out this paragraph in consultation with the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Health and Human Services.”.

(c) EFFECT ON TOTAL AMOUNT AVAILABLE FOR ALLOWANCE.—Subsection (d)(3) of such section is amended in the second sentence by striking out “the second sentence of subsection (c)(3)” and inserting in lieu thereof “paragraph (1)(B) of subsection (c) and the second sentence of paragraph (3) of that subsection”.

(d) CONFORMING AMENDMENTS.—Subsection (c) of such section is further amended—

(1) in paragraph (3), by striking out “this subsection” in the first sentence and inserting in lieu thereof “paragraph (1)(A) or the minimum amount of a variable housing allowance under paragraph (1)(B)”; and

(2) in paragraph (5), by inserting “or minimum amount of a variable housing allowance” after “costs of housing”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997, except that the Secretary of Defense may delay implementation of the requirements imposed by the amendments to such later date as the Secretary considers appropriate upon publication of notice to that effect in the Federal Register.

Federal Register,  
publication.  
37 USC 403a  
note.

**SEC. 607. FAMILY SEPARATION ALLOWANCE FOR MEMBERS SEPARATED BY MILITARY ORDERS FROM SPOUSES WHO ARE MEMBERS.**

(a) ADDITIONAL BASIS FOR ALLOWANCE.—Paragraph (1) of section 427(b) of title 37, United States Code, is amended—

(1) by striking out “or” at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; or”; and

(3) by adding at the end the following new subparagraph:

“(D) the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders.”.

(b) CONFORMING AMENDMENT.—Such section is further amended by adding at the end the following new paragraph:

“(5) Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month.”.

**SEC. 608. WAIVER OF TIME LIMITATIONS FOR CLAIM FOR PAY AND ALLOWANCES.**

Section 3702 of title 31, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) Upon the request of the Secretary concerned (as defined in section 101 of title 37, United States Code), the Comptroller General may waive the time limitations set forth in subsection (b) or (c) in the case of a claim for pay or allowances provided under title 37 and, subject to paragraph (2), settle the claim.

“(2) Payment of a claim settled under paragraph (1) shall be subject to the availability of appropriations for payment of that particular claim.

“(3) This subsection does not apply to a claim in excess of \$25,000.”.

## **Subtitle B—Bonuses and Special and Incentive Pays**

### **SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

(a) **SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS.**—Section 302g(f) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(b) **SELECTED RESERVE REENLISTMENT BONUS.**—Section 308b(f) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(c) **SELECTED RESERVE ENLISTMENT BONUS.**—Section 308c(e) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(d) **SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.**—Section 308d(c) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(e) **SELECTED RESERVE AFFILIATION BONUS.**—Section 308e(e) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(f) **READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.**—Section 308h(g) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(g) **PRIOR SERVICE ENLISTMENT BONUS.**—Section 308i(i) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

### **SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.**

(a) **NURSE OFFICER CANDIDATE ACCESSION PROGRAM.**—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(b) **ACCESSION BONUS FOR REGISTERED NURSES.**—Section 302d(a)(1) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(c) **INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.**—Section 302e(a)(1) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

**SEC. 613. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.**

(a) **AVIATION OFFICER RETENTION BONUS.**—Section 301b(a) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(b) **REENLISTMENT BONUS FOR ACTIVE MEMBERS.**—Section 308(g) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(c) **ENLISTMENT BONUSES FOR CRITICAL SKILLS.**—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(d) **SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.**—Section 312(e) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(e) **NUCLEAR CAREER ACCESSION BONUS.**—Section 312b(c) of title 37, United States Code, is amended by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1998”.

(f) **NUCLEAR CAREER ANNUAL INCENTIVE BONUS.**—Section 312c(d) of title 37, United States Code, is amended by striking out “October 1, 1997” and inserting in lieu thereof “October 1, 1998”.

(g) **REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.**—Section 16302(d) of title 10, United States Code, is amended by striking out “October 1, 1997” and inserting in lieu thereof “October 1, 1998”.

**SEC. 614. SPECIAL PAY FOR CERTAIN PUBLIC HEALTH SERVICE OFFICERS.**

(a) **OPTOMETRISTS.**—Section 302a(b) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out “an armed force” in the matter preceding subparagraph (A) and inserting in lieu thereof “a uniformed service”; and

(B) by striking out “of the military department” in subparagraph (C); and

(2) in paragraph (4), by striking out “of the military department”.

(b) **NONPHYSICIAN HEALTH CARE PROVIDERS.**—Section 302c(d) of title 37, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out “Secretary of Defense” and inserting in lieu thereof “Secretary concerned”; and

(2) in paragraph (1)—

(A) by striking out “or” the third place it appears; and

(B) by inserting before the period at the end the following: “, or an officer in the Regular or Reserve Corps of the Public Health Service”.

**SEC. 615. SPECIAL INCENTIVES TO RECRUIT AND RETAIN DENTAL OFFICERS.**

(a) VARIABLE, ADDITIONAL, AND BOARD CERTIFIED SPECIAL PAYS FOR ACTIVE DUTY DENTAL OFFICERS.—Section 302b(a) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking out “\$1,200” and inserting in lieu thereof “\$3,000”;

(B) in subparagraph (B), by striking out “\$2,000” and inserting in lieu thereof “\$7,000”; and

(C) in subparagraph (C), by striking out “\$4,000” and inserting in lieu thereof “\$7,000”;

(2) in paragraph (4), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

“(A) \$4,000 per year, if the officer has less than three years of creditable service.

“(B) \$6,000 per year, if the officer has at least three but less than 14 years of creditable service.

“(C) \$8,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

“(D) \$10,000 per year, if the officer has at least 18 or more years of creditable service.”; and

(3) in paragraph (5), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

“(A) \$2,500 per year, if the officer has less than 10 years of creditable service.

“(B) \$3,500 per year, if the officer has at least 10 but less than 12 years of creditable service.

“(C) \$4,000 per year, if the officer has at least 12 but less than 14 years of creditable service.

“(D) \$5,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

“(E) \$6,000 per year, if the officer has 18 or more years of creditable service.”.

(b) RESERVE DENTAL OFFICERS SPECIAL PAY.—Section 302b of title 37, United States Code, is amended by adding at the end the following new subsection:

“(h) RESERVE DENTAL OFFICERS SPECIAL PAY.—(1) A reserve dental officer described in paragraph (2) is entitled to special pay at the rate of \$350 a month for each month of active duty, including active duty in the form of annual training, active duty for training, and active duty for special work.

“(2) A reserve dental officer referred to in paragraph (1) is a reserve officer who—

“(A) is an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer; and

“(B) is on active duty under a call or order to active duty for a period of less than one year.”.

(c) ACCESSION BONUS FOR DENTAL SCHOOL GRADUATES WHO ENTER THE ARMED FORCES.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302g the following new section:

**“§ 302h. Special pay: accession bonus for dental officers**

“(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a graduate of an accredited dental school and who, during the period

beginning on the date of the enactment of this section, and ending on September 30, 2002, executes a written agreement described in subsection (c) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

“(2) The amount of an accession bonus under paragraph (1) may not exceed \$30,000.

“(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

“(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in dentistry; or

“(2) the Secretary concerned determines that the person is not qualified to become and remain certified and licensed as a dentist.

“(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the armed service concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer.

“(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to become and remain certified or licensed as a dentist during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

“(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

“(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

“(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302g the following new item:

“302h. Special pay: accession bonus for dental officers.”.

(3) Section 303a of title 37, United States Code, is amended by striking out “302g” each place it appears and inserting in lieu thereof “302h”.

(d) REPORT ON ADDITIONAL ACTIVITIES TO INCREASE RECRUITMENT OF DENTISTS.—Not later than April 1, 1997, the Secretary of Defense shall submit to Congress a report describing the feasibility of increasing the number of persons enrolled in the Armed Forces Health Professions Scholarship and Financial Assistance program who are pursuing a course of study in dentistry in anticipation of service as an officer of the Dental Corps of the Army

or the Navy or an officer of the Air Force designated as a dental officer.

(e) **STYLISTIC AMENDMENTS.**—Section 302b of title 37, United States Code, is amended—

(1) in subsection (a), by inserting “VARIABLE, ADDITIONAL, AND BOARD CERTIFICATION SPECIAL PAY.—” after “(a)”;

(2) in subsection (b), by inserting “ACTIVE-DUTY AGREEMENT.—” after “(b)”;

(3) in subsection (c), by inserting “REGULATIONS.—” after “(c)”;

(4) in subsection (d), by inserting “FREQUENCY OF PAYMENTS.—” after “(d)”;

(5) in subsection (e), by inserting “REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—” after “(e)”;

(6) in subsection (f), by inserting “EFFECT OF DISCHARGE IN BANKRUPTCY.—” after “(f)”;

(7) in subsection (g), by inserting “DETERMINATION OF CREDITABLE SERVICE.—” after “(g)”.

**SEC. 616. FOREIGN LANGUAGE PROFICIENCY PAY FOR PUBLIC HEALTH SERVICE AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OFFICERS.**

(a) **ELIGIBILITY.**—Subsection (a) of section 316 of title 37, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out “armed forces” and inserting in lieu thereof “uniformed services”;

(2) in paragraph (2)—

(A) by striking out “Secretary of Defense” and inserting in lieu thereof “Secretary concerned”; and

(B) by inserting “or public health” after “national defense”; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking out “military” and inserting in lieu thereof “uniformed services”;

(B) in subparagraph (C), by striking out “military”; and

(C) in subparagraph (D)—

(i) by striking out “Department of Defense” and inserting in lieu thereof “uniformed service”; and

(ii) by striking out “Secretary of Defense” and inserting in lieu thereof “Secretary concerned”.

(b) **ADMINISTRATION.**—Subsection (d) of such section is amended—

(1) by striking out “his jurisdiction and” and inserting in lieu thereof “the jurisdiction of the Secretary,”; and

(2) by inserting before the period at the end the following:  
“, by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date.

Applicability.  
37 USC 316 note.

## Subtitle C—Travel and Transportation Allowances

### SEC. 621. ALLOWANCE IN CONNECTION WITH SHIPPING MOTOR VEHICLE AT GOVERNMENT EXPENSE.

(a) ALLOWANCE AUTHORIZED.—Section 406(b)(1)(B) of title 37, United States Code, is amended by adding at the end the following: “If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle.”

37 USC 406 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1997.

### SEC. 622. DISLOCATION ALLOWANCE AT A RATE EQUAL TO TWO AND ONE-HALF MONTHS BASIC ALLOWANCE FOR QUARTERS.

(a) ALLOWANCE AUTHORIZED.—Section 407(a) of title 37, United States Code, is amended in the matter preceding paragraph (1) by striking out “two months” and inserting in lieu thereof “two and one-half months”.

37 USC 407 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1997.

### SEC. 623. ALLOWANCE FOR TRAVEL PERFORMED IN CONNECTION WITH LEAVE BETWEEN CONSECUTIVE OVERSEAS TOURS.

(a) AUTHORITY FOR ADDITIONAL DEFERRAL OF TRAVEL.—Section 411b(a)(2) of title 37, United States Code, is amended by adding at the end the following: “If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends.”

37 USC 411b  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of November 1, 1995.

### SEC. 624. FUNDING FOR TRANSPORTATION OF HOUSEHOLD EFFECTS OF PUBLIC HEALTH SERVICE OFFICERS.

Section 406(j) of title 37, United States Code, is amended—  
(1) in the first sentence of paragraph (1)—

(A) by striking out “Appropriations available” and all that follows through “to a member” and inserting in lieu thereof “The Secretary concerned may pay a monetary allowance to a member of the armed forces or a member of the Commissioned Corps of the Public Health Service”; and

(B) by striking out “of the military department”; and

(2) by adding at the end the following new paragraph:

“(3) Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces under subsection (b) shall be available to pay the monetary allowance authorized under paragraph (1) to such members. Appropriations available to the Department of Health

and Human Services for providing transportation of household effects of members of the Commissioned Corps of the Public Health Service under subsection (b) shall be available to pay the monetary allowance authorized under paragraph (1) to such members.”.

## **Subtitle D—Retired Pay, Survivor Benefits, and Related Matters**

### **SEC. 631. EFFECTIVE DATE FOR MILITARY RETIREE COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 1998.**

(a) **REPEAL OF ADJUSTMENT OF EFFECTIVE DATE FOR FISCAL YEAR 1998.**—Section 1401a(b)(2)(B) of title 10, United States Code, is amended—

(1) by striking out “(B) SPECIAL RULES” and all that follows through “In the case of” in clause (i) and inserting in lieu thereof “(B) SPECIAL RULE FOR FISCAL YEAR 1996.—In the case of”; and

(2) by striking out clause (ii).

(b) **REPEAL OF CONTINGENT ALTERNATIVE DATE FOR FISCAL YEAR 1998.**—Section 631 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 364) is amended by striking out subsection (b).

10 USC 1401a  
note.

### **SEC. 632. CLARIFICATION OF INITIAL COMPUTATION OF RETIREE COLAS AFTER RETIREMENT.**

(a) **IN GENERAL.**—Section 1401a of title 10, United States Code, is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsections:

“(c) **FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.**—

“(1) **FIRST ADJUSTMENT WITH INTERVENING INCREASE IN BASIC PAY.**—Notwithstanding subsection (b), if a person described in paragraph (3) becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

“(A) the price index for the base quarter of that year, exceeds

“(B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

“(2) **FIRST ADJUSTMENT WITH NO INTERVENING INCREASE IN BASIC PAY.**—If a person described in paragraph (3) becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

“(A) the base index, exceeds



“(B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

“(3) MEMBERS COVERED.—Paragraphs (1) and (2) apply to a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, and whose retired pay base is determined under section 1406 of this title.

“(d) FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING HIGH-THREE.—Notwithstanding subsection (b), the retired pay of a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, and whose retired pay base is determined under section 1407 of this title shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member or former member becomes entitled to retired pay by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between the percent by which—

“(1) the price index for the base quarter of that year, exceeds

“(2) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay.”.

Applicability.  
10 USC 1401a  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to adjustments of retired and retainer pay effective after the date of the enactment of this Act.

5 USC 8313 note.

**SEC. 633. SUSPENSION OF PAYMENT OF RETIRED PAY OF MEMBERS WHO ARE ABSENT FROM THE UNITED STATES TO AVOID PROSECUTION.**

(a) DEVELOPMENT OF PROCEDURES FOR SUSPENSION.—The Secretary of Defense shall develop uniform procedures under which the Secretary of a military department may suspend the payment of the retired pay of a member or former member of the Armed Forces during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, United States Code, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report describing the procedures developed under subsection (a). The report shall include recommendations regarding changes to existing provisions of law (including section 8313 of title 5, United States Code) that the Secretary determines are necessary to fully implement the procedures.

(c) RETIRED PAY DEFINED.—For purposes of this section, the term “retired pay” means retired pay, retirement pay, retainer pay, or equivalent pay, payable under a statute to a member or former member of a uniformed service.

(d) EFFECTIVE DATE.—The uniform procedures required by subsection (a) shall be developed not later than 30 days after the date of the enactment of this Act.

**SEC. 634. NONSUBSTANTIVE RESTATEMENT OF SURVIVOR BENEFIT PLAN STATUTE.**

Subchapter II of chapter 73 of title 10, United States Code, is amended to read as follows:

**"SUBCHAPTER II—SURVIVOR BENEFIT PLAN**

"Sec.

"1447. Definitions.

"1448. Application of Plan.

"1449. Mental incompetency of member.

"1450. Payment of annuity: beneficiaries.

"1451. Amount of annuity.

"1452. Reduction in retired pay.

"1453. Recovery of amounts erroneously paid.

"1454. Correction of administrative errors.

"1455. Regulations.

**"§ 1447. Definitions**

"In this subchapter:

"(1) **PLAN.**—The term 'Plan' means the Survivor Benefit Plan established by this subchapter.

"(2) **STANDARD ANNUITY.**—The term 'standard annuity' means an annuity provided by virtue of eligibility under section 1448(a)(1)(A) of this title.

"(3) **RESERVE-COMPONENT ANNUITY.**—The term 'reserve-component annuity' means an annuity provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

"(4) **RETIRED PAY.**—The term 'retired pay' includes retainer pay paid under section 6330 of this title.

"(5) **RESERVE-COMPONENT RETIRED PAY.**—The term 'reserve-component retired pay' means retired pay under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act).

"(6) **BASE AMOUNT.**—The term 'base amount' means the following:

"(A) **FULL AMOUNT UNDER STANDARD ANNUITY.**—In the case of a person who dies after becoming entitled to retired pay, such term means the amount of monthly retired pay (determined without regard to any reduction under section 1409(b)(2) of this title) to which the person—

"(i) was entitled when he became eligible for that pay; or

"(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list.

"(B) **FULL AMOUNT UNDER RESERVE-COMPONENT ANNUITY.**—In the case of a person who would have become eligible for reserve-component retired pay but for the fact that he died before becoming 60 years of age, such term means the amount of monthly retired pay for which the person would have been eligible—

"(i) if he had been 60 years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title; or

“(ii) upon becoming 60 years of age (if he had lived to that age), for purposes of an annuity to become effective on the 60th anniversary of his birth in accordance with a designation made under section 1448(e) of this title.

“(C) REDUCED AMOUNT.—Such term means any amount less than the amount otherwise applicable under subparagraph (A) or (B) with respect to an annuity provided under the Plan but which is not less than \$300 and which is designated by the person (with the concurrence of the person’s spouse, if required under section 1448(a)(3) of this title) providing the annuity on or before—

“(i) the first day for which he becomes eligible for retired pay, in the case of a person providing a standard annuity, or

“(ii) the end of the 90-day period beginning on the date on which he receives the notification required by section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay, in the case of a person providing a reserve-component annuity.

“(7) WIDOW.—The term ‘widow’ means the surviving wife of a person who, if not married to the person at the time he became eligible for retired pay—

“(A) was married to him for at least one year immediately before his death; or

“(B) is the mother of issue by that marriage.

“(8) WIDOWER.—The term ‘widower’ means the surviving husband of a person who, if not married to the person at the time she became eligible for retired pay—

“(A) was married to her for at least one year immediately before her death; or

“(B) is the father of issue by that marriage.

“(9) SURVIVING SPOUSE.—The term ‘surviving spouse’ means a widow or widower.

“(10) FORMER SPOUSE.—The term ‘former spouse’ means the surviving former husband or wife of a person who is eligible to participate in the Plan.

“(11) DEPENDENT CHILD.—

“(A) IN GENERAL.—The term ‘dependent child’ means a person who—

“(i) is unmarried;

“(ii) is (I) under 18 years of age, (II) at least 18, but under 22, years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution, or (III) incapable of self support because of a mental or physical incapacity existing before the person’s eighteenth birthday or incurred on or after that birthday, but before the person’s twenty-second birthday, while pursuing such a full-time course of study or training; and

“(iii) is the child of a person to whom the Plan applies, including (I) an adopted child, and (II) a step-child, foster child, or recognized natural child who lived with that person in a regular parent-child relationship.

“(B) SPECIAL RULES FOR COLLEGE STUDENTS.—For the purpose of subparagraph (A), a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, is considered to have become 22 years of age on the first day of July after that birthday. A child who is a student is considered not to have ceased to be a student during an interim between school years if the interim is not more than 150 days and if the child shows to the satisfaction of the Secretary of Defense that the child has a bona fide intention of continuing to pursue a course of study or training in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim.

“(C) FOSTER CHILDREN.—A foster child, to qualify under this paragraph as the dependent child of a person to whom the Plan applies, must, at the time of the death of that person, also reside with, and receive over one-half of his support from, that person, and not be cared for under a social agency contract. The temporary absence of a foster child from the residence of that person, while a student as described in this paragraph, shall not be considered to affect the residence of such a foster child.

“(12) COURT.—The term ‘court’ has the meaning given that term by section 1408(a)(1) of this title.

“(13) COURT ORDER.—

“(A) IN GENERAL.—The term ‘court order’ means a court’s final decree of divorce, dissolution, or annulment or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

“(B) FINAL DECREE.—The term ‘final decree’ means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

“(C) REGULAR ON ITS FACE.—The term ‘regular on its face’, when used in connection with a court order, means a court order that meets the conditions prescribed in section 1408(b)(2) of this title.

#### “§ 1448. Application of plan

“(a) GENERAL RULES FOR PARTICIPATION IN THE PLAN.—

“(1) NAME OF PLAN; ELIGIBLE PARTICIPANTS.—The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

“(A) Persons entitled to retired pay.

“(B) Persons who would be eligible for reserve-component retired pay but for the fact that they are under 60 years of age.

“(2) PARTICIPANTS IN THE PLAN.—The Plan applies to the following persons, who shall be participants in the Plan:

“(A) STANDARD ANNUITY PARTICIPANTS.—A person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired pay, unless he elects (with his spouse’s concurrence, if required under paragraph (3)) not to participate in the Plan before the first day for which he is eligible for that pay.

“(B) RESERVE-COMPONENT ANNUITY PARTICIPANTS.—A person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay, and (iii) elects to participate in the Plan (and makes a designation under subsection (e)) before the end of the 90-day period beginning on the date he receives such notification.

A person described in clauses (i) and (ii) of subparagraph (B) who does not elect to participate in the Plan before the end of the 90-day period referred to in that clause remains eligible, upon reaching 60 years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

“(3) ELECTIONS.—

“(A) SPOUSAL CONSENT FOR CERTAIN ELECTIONS RESPECTING STANDARD ANNUITY.—A married person who is eligible to provide a standard annuity may not without the concurrence of the person’s spouse elect—

“(i) not to participate in the Plan;

“(ii) to provide an annuity for the person’s spouse at less than the maximum level; or

“(iii) to provide an annuity for a dependent child but not for the person’s spouse.

“(B) SPOUSAL CONSENT FOR CERTAIN ELECTIONS RESPECTING RESERVE-COMPONENT ANNUITY.—A married person who elects to provide a reserve-component annuity may not without the concurrence of the person’s spouse elect—

“(i) to provide an annuity for the person’s spouse at less than the maximum level; or

“(ii) to provide an annuity for a dependent child but not for the person’s spouse.

“(C) EXCEPTION WHEN SPOUSE UNAVAILABLE.—A person may make an election described in subparagraph (A) or (B) without the concurrence of the person’s spouse if the person establishes to the satisfaction of the Secretary concerned—

“(i) that the spouse’s whereabouts cannot be determined; or

“(ii) that, due to exceptional circumstances, requiring the person to seek the spouse’s consent would otherwise be inappropriate.

“(D) CONSTRUCTION WITH FORMER SPOUSE ELECTION PROVISIONS.—This paragraph does not affect any right or obligation to elect to provide an annuity for a former spouse

(or for a former spouse and dependent child) under subsection (b)(2).

“(E) NOTICE TO SPOUSE OF ELECTION TO PROVIDE FORMER SPOUSE ANNUITY.—If a married person who is eligible to provide a standard annuity elects to provide an annuity for a former spouse (or for a former spouse and dependent child) under subsection (b)(2), that person’s spouse shall be notified of that election.

“(4) IRREVOCABILITY OF ELECTIONS.—

“(A) STANDARD ANNUITY.—An election under paragraph (2)(A) not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired pay.

“(B) RESERVE-COMPONENT ANNUITY.—An election under paragraph (2)(B) to participate in the Plan is irrevocable if not revoked before the end of the 90-day period referred to in that paragraph.

“(5) PARTICIPATION BY PERSON MARRYING AFTER RETIREMENT, ETC.—

“(A) ELECTION TO PARTICIPATE IN PLAN.—A person who is not married and has no dependent child upon becoming eligible to participate in the Plan but who later marries or acquires a dependent child may elect to participate in the Plan.

“(B) MANNER AND TIME OF ELECTION.—Such an election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date on which that person marries or acquires that dependent child.

“(C) LIMITATION ON REVOCATION OF ELECTION.—Such an election may not be revoked except in accordance with subsection (b)(3).

“(D) EFFECTIVE DATE OF ELECTION.—The election is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

“(E) DESIGNATION IF RCSBP ELECTION.—In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

“(6) ELECTION OUT OF PLAN BY PERSON WITH SPOUSE COVERAGE WHO REMARRIES.—

“(A) GENERAL RULE.—A person—

“(i) who is a participant in the Plan and is providing coverage under the Plan for a spouse (or a spouse and child);

“(ii) who does not have an eligible spouse beneficiary under the Plan; and

“(iii) who remarries,  
may elect not to provide coverage under the Plan for the person’s spouse.

“(B) EFFECT OF ELECTION ON RETIRED PAY.—If such an election is made, reductions in the retired pay of that person under section 1452 of this title shall not be made.

“(C) TERMS AND CONDITIONS OF ELECTION.—An election under this paragraph—

“(i) is irrevocable;

“(ii) shall be made within one year after the person’s remarriage; and

“(iii) shall be made in such form and manner as may be prescribed in regulations under section 1455 of this title.

“(D) NOTICE TO SPOUSE.—If a person makes an election under this paragraph—

“(i) not to participate in the Plan;

“(ii) to provide an annuity for the person’s spouse at less than the maximum level; or

“(iii) to provide an annuity for a dependent child but not for the person’s spouse,  
the person’s spouse shall be notified of that election.

“(E) CONSTRUCTION WITH FORMER SPOUSE ELECTION PROVISIONS.—This paragraph does not affect any right or obligation to elect to provide an annuity to a former spouse under subsection (b).

“(b) INSURABLE INTEREST AND FORMER SPOUSE COVERAGE.—

“(1) COVERAGE FOR PERSON WITH INSURABLE INTEREST.—

“(A) GENERAL RULE.—A person who is not married and does not have a dependent child upon becoming eligible to participate in the Plan may elect to provide an annuity under the Plan to a natural person with an insurable interest in that person. In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

“(B) TERMINATION OF COVERAGE.—An election under subparagraph (A) for a beneficiary who is not the former spouse of the person providing the annuity may be terminated. Any such termination shall be made by a participant by the submission to the Secretary concerned of a request to discontinue participation in the Plan, and such participation in the Plan shall be discontinued effective on the first day of the first month following the month in which the request is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person’s retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

“(C) FORM FOR DISCONTINUATION.—A request under subparagraph (B) to discontinue participation in the Plan shall be in such form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

“(D) WITHDRAWAL OF REQUEST FOR DISCONTINUATION.—The Secretary concerned shall furnish promptly to each person who submits a request under subparagraph (B) to discontinue participation in the Plan a written statement of the advantages and disadvantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw the request to discontinue participation if withdrawn within 30 days after having been submitted to the Secretary concerned.

“(E) CONSEQUENCES OF DISCONTINUATION.—Once participation is discontinued, benefits may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election under paragraph (5) of subsection (a).

“(2) FORMER SPOUSE COVERAGE UPON BECOMING A PARTICIPANT IN THE PLAN.—

“(A) GENERAL RULE.—A person who has a former spouse upon becoming eligible to participate in the Plan may elect to provide an annuity to that former spouse.

“(B) EFFECT OF FORMER SPOUSE ELECTION ON SPOUSE OR DEPENDENT CHILD.—In the case of a person with a spouse or a dependent child, such an election prevents payment of an annuity to that spouse or child (other than a child who is a beneficiary under an election under paragraph (4)), including payment under subsection (d).

“(C) DESIGNATION IF MORE THAN ONE FORMER SPOUSE.—If there is more than one former spouse, the person shall designate which former spouse is to be provided the annuity.

“(D) DESIGNATION IF RCSBP ELECTION.—In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

“(3) FORMER SPOUSE COVERAGE BY PERSONS ALREADY PARTICIPATING IN PLAN.—

“(A) ELECTION OF COVERAGE.—

“(i) AUTHORITY FOR ELECTION.—A person—

“(I) who is a participant in the Plan and is providing coverage for a spouse or a spouse and child (even though there is no beneficiary currently eligible for such coverage), and

“(II) who has a former spouse who was not that person's former spouse when that person became eligible to participate in the Plan, may (subject to subparagraph (B)) elect to provide an annuity to that former spouse.

“(ii) TERMINATION OF PREVIOUS COVERAGE.—Any such election terminates any previous coverage under the Plan.

“(iii) MANNER AND TIME OF ELECTION.—Any such election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

“(B) LIMITATION ON ELECTION.—A person may not make an election under subparagraph (A) to provide an annuity to a former spouse who that person married after becoming eligible for retired pay unless—

“(i) the person was married to that former spouse for at least one year, or

“(ii) that former spouse is the parent of issue by that marriage.

“(C) IRREVOCABILITY, EFFECTIVE DATE, ETC.—An election under this paragraph may not be revoked except in accordance with section 1450(f) of this title. Such an election is effective as of the first day of the first calendar



month following the month in which it is received by the Secretary concerned. This paragraph does not provide the authority to change a designation previously made under subsection (e).

“(D) NOTICE TO SPOUSE.—If a person who is married makes an election to provide an annuity to a former spouse under this paragraph, that person’s spouse shall be notified of the election.

“(4) FORMER SPOUSE AND CHILD COVERAGE.—A person who elects to provide an annuity for a former spouse under paragraph (2) or (3) may, at the time of the election, elect to provide coverage under that annuity for both the former spouse and a dependent child, if the child resulted from the person’s marriage to that former spouse.

“(5) DISCLOSURE OF WHETHER ELECTION OF FORMER SPOUSE COVERAGE IS REQUIRED.—A person who elects to provide an annuity to a former spouse under paragraph (2) or (3) shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and the former spouse) setting forth—

“(A) whether the election is being made pursuant to the requirements of a court order; or

“(B) whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of, or incident to, a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

“(c) PERSONS ON TEMPORARY DISABILITY RETIRED LIST.—The application of the Plan to a person whose name is on the temporary disability retired list terminates when his name is removed from that list and he is no longer entitled to disability retired pay.

“(d) COVERAGE FOR SURVIVORS OF RETIREMENT-ELIGIBLE MEMBERS WHO DIE ON ACTIVE DUTY.—

“(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a member who dies on active duty after—

“(A) becoming eligible to receive retired pay;

“(B) qualifying for retired pay except that he has not applied for or been granted that pay; or

“(C) completing 20 years of active service but before he is eligible to retire as a commissioned officer because he has not completed 10 years of active commissioned service.

“(2) DEPENDENT CHILD ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the dependent child of a member described in paragraph (1) if there is no surviving spouse or if the member’s surviving spouse subsequently dies.

“(3) MANDATORY FORMER SPOUSE ANNUITY.—If a member described in paragraph (1) is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary—

“(A) may not pay an annuity under paragraph (1) or (2); but

“(B) shall pay an annuity to that former spouse as if the member had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in section 1450(f)(3) of this title.

“(4) PRIORITY.—An annuity that may be provided under this subsection shall be provided in preference to an annuity that may be provided under any other provision of this subchapter on account of service of the same member.

“(5) COMPUTATION.—The amount of an annuity under this subsection is computed under section 1451(c) of this title.

“(e) DESIGNATION FOR COMMENCEMENT OF RESERVE-COMPONENT ANNUITY.—In any case in which a person electing to participate in the Plan is required to make a designation under this subsection, the person making such election shall designate whether, in the event he dies before becoming 60 years of age, the annuity provided shall become effective on—

“(1) the day after the date of his death; or

“(2) the 60th anniversary of his birth.

“(f) COVERAGE OF SURVIVORS OF PERSONS DYING WHEN ELIGIBLE TO ELECT RESERVE-COMPONENT ANNUITY.—

“(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a person who is eligible to provide a reserve-component annuity and who dies—

“(A) before being notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay; or

“(B) during the 90-day period beginning on the date he receives notification under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election under subsection (a)(2)(B) to participate in the Plan.

“(2) DEPENDENT CHILD ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the dependent child of a person described in paragraph (1) if there is no surviving spouse or if the person's surviving spouse subsequently dies.

“(3) MANDATORY FORMER SPOUSE ANNUITY.—If a person described in paragraph (1) is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary—

“(A) may not pay an annuity under paragraph (1) or (2); but

“(B) shall pay an annuity to that former spouse as if the person had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written

request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in section 1450(f)(3) of this title.

“(4) COMPUTATION.—The amount of an annuity under this subsection is computed under section 1451(c) of this title.

“(g) ELECTION TO INCREASE COVERAGE UPON REMARRIAGE.—

“(1) ELECTION.—A person—

“(A) who is a participant in the Plan and is providing coverage under subsection (a) for a spouse or a spouse and child, but at less than the maximum level; and

“(B) who remarries,

may elect, within one year of such remarriage, to increase the level of coverage provided under the Plan to a level not in excess of the current retired pay of that person.

“(2) PAYMENT REQUIRED.—Such an election shall be contingent on the person paying to the United States the amount determined under paragraph (3) plus interest on such amount at a rate determined under regulations prescribed by the Secretary of Defense.

“(3) AMOUNT TO BE PAID.—The amount referred to in paragraph (2) is the amount equal to the difference between—

“(A) the amount that would have been withheld from such person's retired pay under section 1452 of this title if the higher level of coverage had been in effect from the time the person became a participant in the Plan; and

“(B) the amount of such person's retired pay actually withheld.

“(4) MANNER OF MAKING ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary shall prescribe and shall become effective upon receipt of the payment required by paragraph (2).

“(5) DISPOSITION OF PAYMENTS.—A payment received under this subsection by the Secretary of Defense shall be deposited into the Department of Defense Military Retirement Fund. Any other payment received under this subsection shall be deposited in the Treasury as miscellaneous receipts.

#### “§ 1449. Mental incompetency of member

“(a) ELECTION BY SECRETARY CONCERNED ON BEHALF OF MENTALLY INCOMPETENT MEMBER.—If a person to whom section 1448 of this title applies is determined to be mentally incompetent by medical officers of the armed force concerned or of the Department of Veterans Affairs, or by a court of competent jurisdiction, an election described in subsection (a)(2) or (b) of section 1448 of this title may be made on behalf of that person by the Secretary concerned.

“(b) REVOCATION OF ELECTION BY MEMBER.—

“(1) AUTHORITY UPON SUBSEQUENT DETERMINATION OF MENTAL COMPETENCE.—If a person for whom the Secretary has made an election under subsection (a) is later determined to be mentally competent by an authority named in that subsection, that person may, within 180 days after that determination, revoke that election.

“(2) DEDUCTIONS FROM RETIRED PAY NOT TO BE REFUNDED.—Any deduction made from retired pay by reason of such an election may not be refunded.

**“§ 1450. Payment of annuity: beneficiaries**

“(a) IN GENERAL.—Effective as of the first day after the death of a person to whom section 1448 of this title applies (or on such other day as that person may provide under subsection (j)), a monthly annuity under section 1451 of this title shall be paid to the person’s beneficiaries under the Plan, as follows: Effective date.

“(1) SURVIVING SPOUSE OR FORMER SPOUSE.—The eligible surviving spouse or the eligible former spouse.

“(2) SURVIVING CHILDREN.—The surviving dependent children in equal shares, if the eligible surviving spouse or the eligible former spouse is dead, dies, or otherwise becomes ineligible under this section.

“(3) DEPENDENT CHILDREN.—The dependent children in equal shares if the person to whom section 1448 of this title applies (with the concurrence of the person’s spouse, if required under section 1448(a)(3) of this title) elected to provide an annuity for dependent children but not for the spouse or former spouse.

“(4) NATURAL PERSON DESIGNATED UNDER ‘INSURABLE INTEREST’ COVERAGE.—The natural person designated under section 1448(b)(1) of this title, unless the election to provide an annuity to the natural person has been changed as provided in subsection (f).

“(b) TERMINATION OF ANNUITY FOR DEATH, REMARRIAGE BEFORE AGE 55, ETC.—

“(1) GENERAL RULE.—An annuity payable to the beneficiary terminates effective as of the first day of the month in which eligibility is lost.

“(2) TERMINATION OF SPOUSE ANNUITY UPON DEATH OR REMARRIAGE BEFORE AGE 55.—An annuity for a surviving spouse or former spouse shall be paid to the surviving spouse or former spouse while the surviving spouse or former spouse is living or, if the surviving spouse or former spouse remarries before reaching age 55, until the surviving spouse or former spouse remarries.

“(3) EFFECT OF TERMINATION OF SUBSEQUENT MARRIAGE BEFORE AGE 55.—If the surviving spouse or former spouse remarries before reaching age 55 and that marriage is terminated by death, annulment, or divorce, payment of the annuity shall be resumed effective as of the first day of the month in which the marriage is so terminated. However, if the surviving spouse or former spouse is also entitled to an annuity under the Plan based upon the marriage so terminated, the surviving spouse or former spouse may not receive both annuities but must elect which to receive.

“(c) OFFSET FOR AMOUNT OF DEPENDENCY AND INDEMNITY COMPENSATION.—

“(1) REQUIRED OFFSET.—If, upon the death of a person to whom section 1448 of this title applies, the surviving spouse or former spouse of that person is also entitled to dependency and indemnity compensation under section 1311(a) of title 38, the surviving spouse or former spouse may be paid an annuity under this section, but only in the amount that the annuity otherwise payable under this section would exceed that compensation.

“(2) EFFECTIVE DATE OF OFFSET.—A reduction in an annuity under this section required by paragraph (1) shall be effective

on the date of the commencement of the period of payment of such dependency and indemnity compensation under title 38.

“(d) LIMITATION ON PAYMENT OF ANNUITIES WHEN COVERAGE UNDER CIVIL SERVICE RETIREMENT ELECTED.—If, upon the death of a person to whom section 1448 of this title applies, that person had in effect a waiver of that person’s retired pay for the purposes of subchapter III of chapter 83 of title 5, an annuity under this section shall not be payable unless, in accordance with section 8339(j) of title 5, that person notified the Office of Personnel Management that he did not desire any spouse surviving him to receive an annuity under section 8341(b) of that title.

“(e) REFUND OF AMOUNTS DEDUCTED FROM RETIRED PAY WHEN DIC OFFSET IS APPLICABLE.—

“(1) FULL REFUND WHEN DIC GREATER THAN SBP ANNUITY.—If an annuity under this section is not payable because of subsection (c), any amount deducted from the retired pay of the deceased under section 1452 of this title shall be refunded to the surviving spouse or former spouse.

“(2) PARTIAL REFUND WHEN SBP ANNUITY REDUCED BY DIC.—If, because of subsection (c), the annuity payable is less than the amount established under section 1451 of this title, the annuity payable shall be recalculated under that section. The amount of the reduction in the retired pay required to provide that recalculated annuity shall be computed under section 1452 of this title, and the difference between the amount deducted before the computation of that recalculated annuity and the amount that would have been deducted on the basis of that recalculated annuity shall be refunded to the surviving spouse or former spouse.

“(f) CHANGE IN ELECTION OF INSURABLE INTEREST OR FORMER SPOUSE BENEFICIARY.—

“(1) AUTHORIZED CHANGES.—

“(A) ELECTION IN FAVOR OF SPOUSE OR CHILD.—A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2), change that election and provide an annuity to his spouse or dependent child.

“(B) NOTICE.—The Secretary concerned shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under subparagraph (A).

“(C) PROCEDURES, EFFECTIVE DATE, ETC.—Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness as are set forth in section 1448(a)(5) of this title (without regard to the eligibility of the person making the change of election to make such an election under that section).

“(2) LIMITATION ON CHANGE IN BENEFICIARY WHEN FORMER SPOUSE COVERAGE IN EFFECT.—A person who, incident to a proceeding of divorce, dissolution, or annulment, is required by a court order to elect under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child), or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement, may not change that election under paragraph

(1) unless, of the following requirements, whichever are applicable in a particular case are satisfied:

“(A) In a case in which the election is required by a court order, or in which an agreement to make the election has been incorporated in or ratified or approved by a court order, the person—

“(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and which modifies the provisions of all previous court orders relating to such election, or the agreement to make such election, so as to permit the person to change the election; and

“(ii) certifies to the Secretary concerned that the court order is valid and in effect.

“(B) In a case of a written agreement that has not been incorporated in or ratified or approved by a court order, the person—

“(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1); and

“(ii) certifies to the Secretary concerned that the statement is current and in effect.

“(3) REQUIRED FORMER SPOUSE ELECTION TO BE DEEMED TO HAVE BEEN MADE.—

“(A) DEEMED ELECTION UPON REQUEST BY FORMER SPOUSE.—If a person described in paragraph (2) or (3) of section 1448(b) of this title is required (as described in subparagraph (B)) to elect under section 1448(b) of this title to provide an annuity to a former spouse and such person then fails or refuses to make such an election, such person shall be deemed to have made such an election if the Secretary concerned receives the following:

“(i) REQUEST FROM FORMER SPOUSE.—A written request, in such manner as the Secretary shall prescribe, from the former spouse concerned requesting that such an election be deemed to have been made.

“(ii) COPY OF COURT ORDER OR OTHER OFFICIAL STATEMENT.—Either—

“(I) a copy of the court order, regular on its face, which requires such election or incorporates, ratifies, or approves the written agreement of such person; or

“(II) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

“(B) PERSONS REQUIRED TO MAKE ELECTION.—A person shall be considered for purposes of subparagraph (A) to be required to elect under section 1448(b) of this title to provide an annuity to a former spouse if—

“(i) the person enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to make such an election and the agreement (I) has been incorporated in or ratified or approved by a court order, or (II) has been filed with the court

of appropriate jurisdiction in accordance with applicable State law; or

“(ii) the person is required by a court order to make such an election.

“(C) TIME LIMIT FOR REQUEST BY FORMER SPOUSE.—

An election may not be deemed to have been made under subparagraph (A) in the case of any person unless the Secretary concerned receives a request from the former spouse of the person within one year of the date of the court order or filing involved.

“(D) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under subparagraph (A) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

“(4) FORMER SPOUSE COVERAGE MAY BE REQUIRED BY COURT ORDER.—A court order may require a person to elect (or to enter into an agreement to elect) under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child).

“(g) LIMITATION ON CHANGING OR REVOKING ELECTIONS.—

“(1) IN GENERAL.—An election under this section may not be changed or revoked.

“(2) EXCEPTIONS.—Paragraph (1) does not apply to—

“(A) a revocation of an election under section 1449(b) of this title; or

“(B) a change in an election under subsection (f).

“(h) TREATMENT OF ANNUITIES UNDER OTHER LAWS.—Except as provided in section 1451 of this title, an annuity under this section is in addition to any other payment to which a person is entitled under any other provision of law. Such annuity shall be considered as income under laws administered by the Secretary of Veterans Affairs.

“(i) ANNUITIES EXEMPT FROM CERTAIN LEGAL PROCESS.—Except as provided in subsection (1)(3)(B), an annuity under this section is not assignable or subject to execution, levy, attachment, garnishment, or other legal process.

“(j) EFFECTIVE DATE OF RESERVE-COMPONENT ANNUITIES.—

“(1) PERSONS MAKING SECTION 1448(e) DESIGNATION.—An annuity elected by a person providing a reserve-component annuity shall be effective in accordance with the designation made by such person under section 1448(e) of this title.

“(2) PERSONS DYING BEFORE MAKING SECTION 1448(e) DESIGNATION.—An annuity payable under section 1448(f) of this title shall be effective on the day after the date of the death of the person upon whose service the right to the annuity is based.

“(k) ADJUSTMENT OF SPOUSE OR FORMER SPOUSE ANNUITY UPON LOSS OF DEPENDENCY AND INDEMNITY COMPENSATION.—

“(1) READJUSTMENT IF BENEFICIARY 55 YEARS OF AGE OR MORE.—If a surviving spouse or former spouse whose annuity has been adjusted under subsection (c) subsequently loses entitlement to dependency and indemnity compensation under section 1311(a) of title 38 because of the remarriage of the surviving spouse, or former spouse, and if at the time of such remarriage the surviving spouse or former spouse is 55 years of age or more, the amount of the annuity of the surviving

spouse or former spouse shall be readjusted, effective on the effective date of such loss of dependency and indemnity compensation, to the amount of the annuity which would be in effect with respect to the surviving spouse or former spouse if the adjustment under subsection (c) had never been made.

**“(2) REPAYMENT OF AMOUNTS PREVIOUSLY REFUNDED.—**

**“(A) GENERAL RULE.—**A surviving spouse or former spouse whose annuity is readjusted under paragraph (1) shall repay any amount refunded under subsection (e) by reason of the adjustment under subsection (c).

**“(B) INTEREST REQUIRED IF REPAYMENT NOT A LUMP SUM.—**If the repayment is not made in a lump sum, the surviving spouse or former spouse shall pay interest on the amount to be repaid. Such interest shall commence on the date on which the first such payment is due and shall be applied over the period during which any part of the repayment remains to be paid.

**“(C) MANNER OF REPAYMENT; RATE OF INTEREST.—**The manner in which such repayment shall be made, and the rate of any such interest, shall be prescribed in regulations under section 1455 of this title.

**“(D) DEPOSIT OF AMOUNTS REPAID.—**An amount repaid under this paragraph (including any such interest) received by the Secretary of Defense shall be deposited into the Department of Defense Military Retirement Fund. Any other amount repaid under this paragraph shall be deposited into the Treasury as miscellaneous receipts.

**“(1) PARTICIPANTS IN THE PLAN WHO ARE MISSING.—**

**“(1) AUTHORITY TO PRESUME DEATH OF MISSING PARTICIPANT.—**

**“(A) IN GENERAL.—**Upon application of the beneficiary of a participant in the Plan who is missing, the Secretary concerned may determine for purposes of this subchapter that the participant is presumed dead.

**“(B) PARTICIPANT WHO IS MISSING.—**A participant in the Plan is considered to be missing for purposes of this subsection if—

“(i) the retired pay of the participant has been suspended on the basis that the participant is missing; or

“(ii) in the case of a participant in the Plan who would be eligible for reserve-component retired pay but for the fact that he is under 60 years of age, his retired pay, if he were entitled to retired pay, would be suspended on the basis that he is missing.

**“(C) REQUIREMENTS APPLICABLE TO PRESUMPTION OF DEATH.—**Any such determination shall be made in accordance with regulations prescribed under section 1455 of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a participant who is missing is presumed dead unless the Secretary finds that—

“(i) the participant has been missing for at least 30 days; and

“(ii) the circumstances under which the participant is missing would lead a reasonably prudent person to conclude that the participant is dead.



“(2) COMMENCEMENT OF ANNUITY.—Upon a determination under paragraph (1) with respect to a participant in the Plan, an annuity otherwise payable under this subchapter shall be paid as if the participant died on the date as of which the retired pay of the participant was suspended.

“(3) EFFECT OF PERSON NOT BEING DEAD.—

“(A) TERMINATION OF ANNUITY.—If, after a determination under paragraph (1), the Secretary concerned determines that the participant is alive—

“(i) any annuity being paid under this subchapter by reason of this subsection shall be terminated; and

“(ii) the total amount of any annuity payments made by reason of this subsection shall constitute a debt to the United States.

“(B) COLLECTION FROM PARTICIPANT OF ANNUITY AMOUNTS ERRONEOUSLY PAID.—A debt under subparagraph (A)(ii) may be collected or offset—

“(i) from any retired pay otherwise payable to the participant;

“(ii) if the participant is entitled to compensation under chapter 11 of title 38, from that compensation; or

“(iii) if the participant is entitled to any other payment from the United States, from that payment.

“(C) COLLECTION FROM BENEFICIARY.—If the participant dies before the full recovery of the amount of annuity payments described in subparagraph (A)(ii) has been made by the United States, the remaining amount of such annuity payments may be collected from the participant's beneficiary under the Plan if that beneficiary was the recipient of the annuity payments made by reason of this subsection.

#### “§ 1451. Amount of annuity

“(a) COMPUTATION OF ANNUITY FOR A SPOUSE, FORMER SPOUSE, OR CHILD.—

“(1) STANDARD ANNUITY.—In the case of a standard annuity provided to a beneficiary under section 1450(a) of this title (other than under section 1450(a)(4)), the monthly annuity payable to the beneficiary shall be determined as follows:

“(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age or is a dependent child when becoming entitled to the annuity, the monthly annuity shall be the amount equal to 55 percent of the base amount.

“(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

“(i) GENERAL RULE.—If the beneficiary (other than a dependent child) is 62 years of age or older when becoming entitled to the annuity, the monthly annuity shall be the amount equal to 35 percent of the base amount.

“(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be

computed under that subsection rather than under clause (i).

“(2) RESERVE-COMPONENT ANNUITY.—In the case of a reserve-component annuity provided to a beneficiary under section 1450(a) of this title (other than under section 1450(a)(4)), the monthly annuity payable to the beneficiary shall be determined as follows:

“(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age or is a dependent child when becoming entitled to the annuity, the monthly annuity shall be the amount equal to a percentage of the base amount that—

“(i) is less than 55 percent; and

“(ii) is determined under subsection (f).

“(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

“(i) GENERAL RULE.—If the beneficiary (other than a dependent child) is 62 years of age or older when becoming entitled to the annuity, the monthly annuity shall be the amount equal to a percentage of the base amount that—

“(I) is less than 35 percent; and

“(II) is determined under subsection (f).

“(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).

“(b) INSURABLE INTEREST BENEFICIARY.—

“(1) STANDARD ANNUITY.—In the case of a standard annuity provided to a beneficiary under section 1450(a)(4) of this title, the monthly annuity payable to the beneficiary shall be the amount equal to 55 percent of the retired pay of the person who elected to provide the annuity after the reduction in that pay in accordance with section 1452(c) of this title.

“(2) RESERVE-COMPONENT ANNUITY.—In the case of a reserve-component annuity provided to a beneficiary under section 1450(a)(4) of this title, the monthly annuity payable to the beneficiary shall be the amount equal to a percentage of the retired pay of the person who elected to provide the annuity after the reduction in such pay in accordance with section 1452(c) of this title that—

“(A) is less than 55 percent; and

“(B) is determined under subsection (f).

“(3) COMPUTATION OF RESERVE-COMPONENT ANNUITY WHEN PARTICIPANT DIES BEFORE AGE 60.—For the purposes of paragraph (2), a person—

“(A) who provides an annuity that is determined in accordance with that paragraph;

“(B) who dies before becoming 60 years of age; and

“(C) who at the time of death is otherwise entitled to retired pay,

shall be considered to have been entitled to retired pay at the time of death. The retired pay of such person for the

purposes of such paragraph shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity provided by such person is to become effective in accordance with the designation of such person under section 1448(e) of this title.

**"(c) ANNUITIES FOR SURVIVORS OF CERTAIN PERSONS DYING DURING A PERIOD OF SPECIAL ELIGIBILITY FOR SBP.—**

**"(1) IN GENERAL.—**In the case of an annuity provided under section 1448(d) or 1448(f) of this title, the amount of the annuity shall be determined as follows:

**"(A) BENEFICIARY UNDER 62 YEARS OF AGE.—**If the person receiving the annuity is under 62 years of age or is a dependent child when the member or former member dies, the monthly annuity shall be the amount equal to 55 percent of the retired pay to which the member or former member would have been entitled if the member or former member had been entitled to that pay based upon his years of active service when he died.

**"(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—**

**"(i) GENERAL RULE.—**If the person receiving the annuity (other than a dependent child) is 62 years of age or older when the member or former member dies, the monthly annuity shall be the amount equal to 35 percent of the retired pay to which the member or former member would have been entitled if the member or former member had been entitled to that pay based upon his years of active service when he died.

**"(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—**If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).

**"(2) DIC OFFSET.—**An annuity computed under paragraph (1) that is paid to a surviving spouse shall be reduced by the amount of dependency and indemnity compensation to which the surviving spouse is entitled under section 1311(a) of title 38. Any such reduction shall be effective on the date of the commencement of the period of payment of such compensation under title 38.

**"(3) SERVICEMEMBERS NOT YET GRANTED RETIRED PAY.—**In the case of an annuity provided by reason of the service of a member described in section 1448(d)(1)(B) or 1448(d)(1)(C) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined for purposes of paragraph (1) based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.

**"(4) RATE OF PAY TO BE USED IN COMPUTING ANNUITY.—**In the case of an annuity paid under section 1448(f) of this

title by reason of the service of a person who first became a member of a uniformed service before September 8, 1980, the retired pay of the person providing the annuity shall for the purposes of paragraph (1) be computed on the basis of the rates of basic pay in effect on the effective date of the annuity.

**"(d) REDUCTION OF ANNUITIES AT AGE 62.—**

**"(1) REDUCTION REQUIRED.—**The annuity of a person whose annuity is computed under subparagraph (A) of subsection (a)(1), (a)(2), or (c)(1) shall be reduced on the first day of the month after the month in which the person becomes 62 years of age.

**"(2) AMOUNT OF ANNUITY AS REDUCED.—**

**"(A) 35 PERCENT ANNUITY.—**Except as provided in subparagraph (B), the reduced amount of the annuity shall be the amount of the annuity that the person would be receiving on that date if the annuity had initially been computed under subparagraph (B) of that subsection.

**"(B) SAVINGS PROVISION FOR BENEFICIARIES ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—**In the case of a person eligible to have an annuity computed under subsection (e) and for whom, at the time the person becomes 62 years of age, the annuity computed with a reduction under subsection (e)(3) is more favorable than the annuity with a reduction described in subparagraph (A), the reduction in the annuity shall be computed in the same manner as a reduction under subsection (e)(3).

**"(e) SAVINGS PROVISION FOR CERTAIN BENEFICIARIES.—**

**"(1) PERSONS COVERED.—**The following beneficiaries under the Plan are eligible to have an annuity under the Plan computed under this subsection:

**"(A) A beneficiary receiving an annuity under the Plan on October 1, 1985, as the surviving spouse or former spouse of the person providing the annuity.**

**"(B) A spouse or former spouse beneficiary of a person who on October 1, 1985—**

**"(i) was a participant in the Plan;**

**"(ii) was entitled to retired pay or was qualified for that pay except that he had not applied for and been granted that pay; or**

**"(iii) would have been eligible for reserve-component retired pay but for the fact that he was under 60 years of age.**

**"(2) AMOUNT OF ANNUITY.—**Subject to paragraph (3), an annuity computed under this subsection is determined as follows:

**"(A) STANDARD ANNUITY.—**In the case of the beneficiary of a standard annuity, the annuity shall be the amount equal to 55 percent of the base amount.

**"(B) RESERVE-COMPONENT ANNUITY.—**In the case of the beneficiary of a reserve-component annuity, the annuity shall be the percentage of the base amount that—

**"(i) is less than 55 percent; and**

**"(ii) is determined under subsection (f).**

**"(C) BENEFICIARIES OF PERSONS DYING DURING A PERIOD OF SPECIAL ELIGIBILITY FOR SBP.—**In the case of the beneficiary of an annuity under section 1448(d) or 1448(f) of

this title, the annuity shall be the amount equal to 55 percent of the retired pay of the person providing the annuity (as that pay is determined under subsection (c)).

“(3) SOCIAL SECURITY OFFSET.—An annuity computed under this subsection shall be reduced by the lesser of the following:

“(A) SOCIAL SECURITY COMPUTATION.—The amount of the survivor benefit, if any, to which the surviving spouse (or the former spouse, in the case of a former spouse beneficiary who became a former spouse under a divorce that became final after November 29, 1989) would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(1)(1) of such Act (42 U.S.C. 410(1)(1)) and calculated assuming that the person concerned lives to age 65.

“(B) MAXIMUM AMOUNT OF REDUCTION.—40 percent of the amount of the monthly annuity as determined under paragraph (2).

“(4) SPECIAL RULES FOR SOCIAL SECURITY OFFSET COMPUTATION.—

“(A) TREATMENT OF DEDUCTIONS MADE ON ACCOUNT OF WORK.—For the purpose of paragraph (3), a surviving spouse (or a former spouse, in the case of a person who becomes a former spouse under a divorce that becomes final after November 29, 1989) shall not be considered as entitled to a benefit under title II of the Social Security Act (42 U.S.C. 401 et seq.) to the extent that such benefit has been offset by deductions under section 203 of such Act (42 U.S.C. 403) on account of work.

“(B) TREATMENT OF CERTAIN PERIODS FOR WHICH SOCIAL SECURITY REFUNDS ARE MADE.—In the computation of any reduction made under paragraph (3), there shall be excluded any period of service described in section 210(1)(1) of the Social Security Act (42 U.S.C. 410(1)(1))—

“(i) which was performed after December 1, 1980; and

“(ii) which involved periods of service of less than 30 continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1986 of the social security tax which the person had paid.

“(f) DETERMINATION OF PERCENTAGES APPLICABLE TO COMPUTATION OF RESERVE-COMPONENT ANNUITIES.—The percentage to be applied in determining the amount of an annuity computed under subsection (a)(2), (b)(2), or (e)(2)(B) shall be determined under regulations prescribed by the Secretary of Defense. Such regulations shall be prescribed taking into consideration the following:

“(1) The age of the person electing to provide the annuity at the time of such election.

“(2) The difference in age between such person and the beneficiary of the annuity.

“(3) Whether such person provided for the annuity to become effective (in the event he died before becoming 60 years of age) on the day after his death or on the 60th anniversary of his birth.

“(4) Appropriate group annuity tables.

“(5) Such other factors as the Secretary considers relevant.

Regulations.

“(g) ADJUSTMENTS TO ANNUITIES.—

“(1) PERIODIC ADJUSTMENTS FOR COST-OF-LIVING.—

“(A) INCREASES IN ANNUITIES WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), each annuity that is payable under the Plan shall be increased at the same time.

“(B) PERCENTAGE OF INCREASE.—The increase shall, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).

“(C) CERTAIN REDUCTIONS TO BE DISREGARDED.—The amount of the increase shall be based on the monthly annuity payable before any reduction under section 1450(c) of this title or under subsection (c)(2).

“(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

“(h) ADJUSTMENTS TO BASE AMOUNT.—

“(1) PERIODIC ADJUSTMENTS FOR COST-OF-LIVING.—

“(A) INCREASES IN BASE AMOUNT WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the base amount applicable to each participant in the Plan shall be increased at the same time.

“(B) PERCENTAGE OF INCREASE.—The increase shall be by the same percent as the percent by which the retired pay of the participant is so increased.

“(2) RECOMPUTATION AT AGE 62.—When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the base amount applicable to that person shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of the base amount that would be in effect on that date if increases in such base amount under paragraph (1) had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

“(3) DISREGARDING OF RETIRED PAY REDUCTIONS FOR RETIREMENT BEFORE 30 YEARS OF SERVICE.—Computation of a member's retired pay for purposes of this section shall be made without regard to any reduction under section 1409(b)(2) of this title.

“(i) RECOMPUTATION OF ANNUITY FOR CERTAIN BENEFICIARIES.—In the case of an annuity under the Plan which is computed on the basis of the retired pay of a person who would have been entitled to have that retired pay recomputed under section 1410 of this title upon attaining 62 years of age, but who dies before attaining that age, the annuity shall be recomputed, effective on the first day of the first month beginning after the date on which the member or former member would have attained 62 years of age, so as to be the amount equal to the amount of the annuity that would be in effect on that date if increases

under subsection (h)(1) in the base amount applicable to that annuity to the time of the death of the member or former member, and increases in such annuity under subsection (g)(1), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

**“§ 1452. Reduction in retired pay**

“(a) SPOUSE AND FORMER SPOUSE ANNUITIES.—

“(1) REQUIRED REDUCTION IN RETIRED PAY.—Except as provided in subsection (b), the retired pay of a participant in the Plan who is providing spouse coverage (as described in paragraph (5)) shall be reduced as follows:

“(A) STANDARD ANNUITY.—If the annuity coverage being providing is a standard annuity, the reduction shall be as follows:

“(i) DISABILITY AND NONREGULAR SERVICE RETIREES.—In the case of a person who is entitled to retired pay under chapter 61 or chapter 1223 of this title, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

“(ii) MEMBERS AS OF ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first became a member of a uniformed service before March 1, 1990, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

“(iii) NEW ENTRANTS AFTER ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first becomes a member of a uniformed service on or after March 1, 1990, and who is entitled to retired pay under a provision of law other than chapter 61 or chapter 1223 of this title, the reduction shall be in an amount equal to 6½ percent of the base amount.

“(iv) ALTERNATIVE REDUCTION AMOUNTS.—For purposes of clauses (i) and (ii), the alternative reduction amounts are the following:

“(I) FLAT-RATE REDUCTION.—An amount equal to 6½ percent of the base amount.

“(II) AMOUNT UNDER PRE-FLAT-RATE REDUCTION.—An amount equal to 2½ percent of the first \$337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

“(B) RESERVE-COMPONENT ANNUITY.—If the annuity coverage being provided is a reserve-component annuity, the reduction shall be in whichever of the following amounts is more favorable to that person:

“(i) FLAT-RATE REDUCTION.—An amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

“(ii) AMOUNT UNDER PRE-FLAT-RATE REDUCTION.—An amount equal to 2½ percent of the first \$337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remain-

der of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

“(2) ADDITIONAL REDUCTION FOR CHILD COVERAGE.—If there is a dependent child as well as a spouse or former spouse, the amount prescribed under paragraph (1) shall be increased by an amount prescribed under regulations of the Secretary of Defense. Regulations.

“(3) NO REDUCTION WHEN NO BENEFICIARY.—The reduction in retired pay prescribed by paragraph (1) shall not be applicable during any month in which there is no eligible spouse or former spouse beneficiary.

“(4) PERIODIC ADJUSTMENTS.—

“(A) ADJUSTMENTS FOR INCREASES IN RATES OF BASIC PAY.—Whenever there is an increase in the rates of basic pay of members of the uniformed services effective on or after October 1, 1985, the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be increased by the overall percentage of such increase in the rates of basic pay. The increase under the preceding sentence shall apply only with respect to persons whose retired pay is computed based on the rates of basic pay in effect on or after the date of such increase in rates of basic pay.

“(B) ADJUSTMENTS FOR RETIRED PAY COLAS.—In addition to the increase under subparagraph (A), the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be further increased at the same time and by the same percentage as an increase in retired pay under section 1401a of this title effective on or after October 1, 1985. Such increase under the preceding sentence shall apply only with respect to a person who initially participates in the Plan on a date which is after both the effective date of such increase under section 1401a and the effective date of the rates of basic pay upon which that person's retired pay is computed.

“(5) SPOUSE COVERAGE DESCRIBED.—For the purposes of paragraph (1), a participant in the Plan who is providing spouse coverage is a participant who—

“(A) has (i) a spouse or former spouse, or (ii) a spouse or former spouse and a dependent child; and

“(B) has not elected to provide an annuity to a person designated by him under section 1448(b)(1) of this title or, having made such an election, has changed his election in favor of his spouse under section 1450(f) of this title.

“(b) CHILD-ONLY ANNUITIES.—

“(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

“(2) NO REDUCTION WHEN NO CHILD.—There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.



“(3) SPECIAL RULE FOR CERTAIN RCSBP PARTICIPANTS.—In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

“(4) CHILD-ONLY COVERAGE DEFINED.—For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who—

“(A) does not have an eligible spouse or former spouse; or

“(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.

“(c) REDUCTION FOR INSURABLE INTEREST COVERAGE.—

“(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title shall be reduced as follows:

“(A) STANDARD ANNUITY.—In the case of a person providing a standard annuity, the reduction shall be by 10 percent plus 5 percent for each full five years the individual designated is younger than that person.

“(B) RESERVE COMPONENT ANNUITY.—In the case of a person providing a reserve-component annuity, the reduction shall be by an amount prescribed under regulations of the Secretary of Defense.

“(2) LIMITATION ON TOTAL REDUCTION.—The total reduction under paragraph (1) may not exceed 40 percent.

“(3) DURATION OF REDUCTION.—The reduction in retired pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired pay changes his election under section 1450(f) of this title.

“(4) RULE FOR COMPUTATION.—Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) of this title.

“(d) DEPOSITS TO COVER PERIODS WHEN RETIRED PAY NOT PAID.—

“(1) REQUIRED DEPOSITS.—If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for any period, that person must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period.

“(2) DEPOSITS NOT REQUIRED WHEN PARTICIPANT ON ACTIVE DUTY.—Paragraph (1) does not apply to a person with respect to any period when that person is on active duty under a call or order to active duty for a period of more than 30 days.

“(e) DEPOSITS NOT REQUIRED FOR CERTAIN PARTICIPANTS IN CSRS.—When a person who has elected to participate in the Plan waives that person’s retired pay for the purposes of subchapter III of chapter 83 of title 5, that person shall not be required to make the deposit otherwise required by subsection (d) as long as that waiver is in effect unless, in accordance with section 8339(i) of title 5, that person has notified the Office of Personnel Management that he does not desire a spouse surviving him to receive an annuity under section 8331(b) of title 5.

“(f) REFUNDS OF DEDUCTIONS NOT ALLOWED.—

“(1) GENERAL RULE.—A person is not entitled to refund of any amount deducted from retired pay under this section.

“(2) EXCEPTIONS.—Paragraph (1) does not apply—

“(A) in the case of a refund authorized by section 1450(e) of this title; or

“(B) in case of a deduction made through administrative error.

“(g) DISCONTINUATION OF PARTICIPATION BY PARTICIPANTS WHOSE SURVIVING SPOUSES WILL BE ENTITLED TO DIC.—

“(1) DISCONTINUATION.—

“(A) CONDITIONS.—Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), a person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Secretary of Veterans Affairs as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person’s last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan.

“(B) EFFECTIVE DATE.—Participation in the Plan of a person who submits a request under subparagraph (A) shall be discontinued effective on the first day of the first month following the month in which the request under subparagraph (A) is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person’s retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

“(C) FORM FOR REQUEST FOR DISCONTINUATION.—Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

“(2) CONSENT OF BENEFICIARIES REQUIRED.—A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the beneficiary or beneficiaries of such person under the Plan.

“(3) INFORMATION ON PLAN TO BE PROVIDED BY SECRETARY CONCERNED.—

“(A) INFORMATION TO BE PROVIDED PROMPTLY TO PARTICIPANT.—The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation.

“(B) RIGHT TO WITHDRAW DISCONTINUATION REQUEST.—A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

“(4) REFUND OF DEDUCTIONS FROM RETIRED PAY.—Upon the death of a person described in paragraph (1) who discontinued participation in the Plan in accordance with this subsection, any amount deducted from the retired pay of that person under this section shall be refunded to the person's surviving spouse.

“(5) RESUMPTION OF PARTICIPATION IN PLAN.—

“(A) CONDITIONS FOR RESUMPTION.—A person described in paragraph (1) who discontinued participation in the Plan may elect to participate again in the Plan if—

“(i) after having discontinued participation in the Plan the Secretary of Veterans Affairs reduces that person's service-connected disability rating to a rating of less than total; and

“(ii) that person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require.

“(B) EFFECTIVE DATE OF RESUMED COVERAGE.—Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month after the month in which the Secretary concerned receives the application for resumption of participation in the Plan.

“(C) RESUMPTION OF CONTRIBUTIONS.—When a person elects to participate in the Plan under this paragraph, the Secretary concerned shall begin making reductions in that person's retired pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on the effective date of such participation under subparagraph (B).

“(h) INCREASES IN REDUCTION WITH INCREASES IN RETIRED PAY.—

“(1) GENERAL RULE.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount of the reduction to be made under subsection (a) or (b) in the retired pay of any person shall be increased at the same time and by the same percentage as such retired pay is so increased.

“(i) RECOMPUTATION OF REDUCTION UPON RECOMPUTATION OF RETIRED PAY.—When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age,

the amount of the reduction in such retired pay under this section shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of such reduction that would be in effect on that date if increases in such retired pay under section 1401a(b) of this title, and increases in reductions in such retired pay under subsection (h), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

**“§ 1453. Recovery of amounts erroneously paid**

“(a) RECOVERY.—In addition to any other method of recovery provided by law, the Secretary concerned may authorize the recovery of any amount erroneously paid to a person under this subchapter by deduction from later payments to that person.

“(b) AUTHORITY TO WAIVE RECOVERY.—Recovery of an amount erroneously paid to a person under this subchapter is not required if, in the judgment of the Secretary concerned and the Comptroller General—

“(1) there has been no fault by the person to whom the amount was erroneously paid; and

“(2) recovery of such amount would be contrary to the purposes of this subchapter or against equity and good conscience.

**“§ 1454. Correction of administrative errors**

“(a) AUTHORITY.—The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when the Secretary considers it necessary to correct an administrative error.

“(b) FINALITY.—Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States.

**“§ 1455. Regulations**

President.

“(a) IN GENERAL.—The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services.

“(b) NOTICE OF ELECTIONS.—Regulations prescribed under this section shall provide that before the date on which a member becomes entitled to retired pay—

“(1) if the member is married, the member and the member's spouse shall be informed of the elections available under section 1448(a) of this title and the effects of such elections; and

“(2) if the notification referred to in section 1448(a)(3)(E) of this title is required, any former spouse of the member shall be informed of the elections available and the effects of such elections.

“(c) PROCEDURE FOR DEPOSITING CERTAIN RECEIPTS.—Regulations prescribed under this section shall establish procedures for depositing the amounts referred to in sections 1448(g), 1450(k)(2), and 1452(d) of this title.

“(d) PAYMENTS TO GUARDIANS AND FIDUCIARIES.—

“(1) IN GENERAL.—Regulations prescribed under this section shall provide procedures for the payment of an annuity under this subchapter in the case of—

“(A) a person for whom a guardian or other fiduciary has been appointed; and

“(B) a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed.

“(2) AUTHORIZED PROCEDURES.—The regulations under paragraph (1) may include provisions for the following:

“(A) In the case of an annuitant referred to in paragraph (1)(A), payment of the annuity to the appointed guardian or other fiduciary.

“(B) In the case of an annuitant referred to in paragraph (1)(B), payment of the annuity to any person who, in the judgment of the Secretary concerned, is responsible for the care of the annuitant.

“(C) Subject to subparagraphs (D) and (E), a requirement for the payee of an annuity to spend or invest the amounts paid on behalf of the annuitant solely for benefit of the annuitant.

“(D) Authority for the Secretary concerned to permit the payee to withhold from the annuity payment such amount, not in excess of 4 percent of the annuity, as the Secretary concerned considers a reasonable fee for the fiduciary services of the payee when a court appointment order provides for payment of such a fee to the payee for such services or the Secretary concerned determines that payment of a fee to such payee is necessary in order to obtain the fiduciary services of the payee.

“(E) Authority for the Secretary concerned to require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant and to pay for such bond out of the annuity.

“(F) A requirement for the payee of an annuity to maintain and, upon request, to provide to the Secretary concerned an accounting of expenditures and investments of amounts paid to the payee.

“(G) In the case of an annuitant referred to in paragraph (1)(B)—

“(i) procedures for determining incompetency and for selecting a payee to represent the annuitant for the purposes of this section, including provisions for notifying the annuitant of the actions being taken to make such a determination and to select a representative payee, an opportunity for the annuitant to review the evidence being considered, and an opportunity for the annuitant to submit additional evidence before the determination is made; and

“(ii) standards for determining incompetency, including standards for determining the sufficiency of medical evidence and other evidence.

“(H) Provisions for any other matter that the President considers appropriate in connection with the payment of an annuity in the case of a person referred to in paragraph (1).

“(3) LEGAL EFFECT OF PAYMENT TO GUARDIAN OR FIDUCIARY.—An annuity paid to a person on behalf of an annuitant in accordance with the regulations prescribed pursuant to paragraph (1) discharges the obligation of the United States for

payment to the annuitant of the amount of the annuity so paid.”.

**SEC. 635. INCREASES IN SURVIVOR BENEFIT PLAN CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RETIRED PAY COST-OF-LIVING INCREASES.**

(a) **SURVIVOR BENEFIT PLAN.**—Section 1452(h) of title 10, United States Code, as amended by section 634, is amended by adding at the end the following new paragraph:

“(2) **COORDINATION WHEN PAYMENT OF INCREASE IN RETIRED PAY IS DELAYED BY LAW.**—

“(A) **IN GENERAL.**—Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is for a month that begins later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section (or section 631(b) of Public Law 104-106 (110 Stat. 364)), then the amount of the reduction in the person’s retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

“(B) **DELAY NOT TO AFFECT COMPUTATION OF ANNUITY.**—Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

Applicability.  
10 USC 1452  
note.

**SEC. 636. AMENDMENTS TO THE UNIFORMED SERVICES FORMER SPOUSES’ PROTECTION ACT.**

(a) **MANNER OF SERVICE OF PROCESS.**—Subsection (b)(1)(A) of section 1408 of title 10, United States Code, is amended by striking out “certified or registered mail, return receipt requested” and inserting in lieu thereof “facsimile or electronic transmission or by mail”.

(b) **SUBSEQUENT COURT ORDER FROM ANOTHER STATE.**—Subsection (d) of such section is amended by adding at the end the following new paragraph:

“(6)(A) The Secretary concerned may not accept service of a court order that is an out-of State modification, or comply with the provisions of such a court order, unless the court issuing that order has jurisdiction in the manner specified in subsection (c)(4) over both the member and the spouse or former spouse involved.

“(B) A court order shall be considered to be an out-of-State modification for purposes of this paragraph if the order—

“(i) modifies a previous court order under this section upon which payments under this subsection are based; and

“(ii) is issued by a court of a State other than the State of the court that issued the previous court order.”.

**SEC. 637. PREVENTION OF CIRCUMVENTION OF COURT ORDER BY  
WAIVER OF RETIRED PAY TO ENHANCE CIVIL SERVICE  
RETIREMENT ANNUITY.**

(a) **CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.**—(1) Subsection (c) of section 8332 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(4) If, after January 1, 1997, an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this subchapter only if the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter an amount equal to the amount that, if the annuity payment was instead a payment of the employee’s or Member’s retired pay, would have been deducted and withheld and paid to the former spouse covered by the court order under such section 1408. The amount deducted and withheld under this paragraph shall be paid to that former spouse. The period of civil service employment by the employee or Member shall not be taken into consideration in determining the amount of the deductions and withholding or the amount of the payment to the former spouse. The Director of the Office of Personnel Management shall prescribe regulations to carry out this paragraph.”

Regulations.

(2) Paragraph (1) of such subsection is amended by striking out “Except as provided in paragraph (2)” and inserting in lieu thereof “Except as provided in paragraphs (2) and (4)”.

(b) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—(1) Subsection (c) of section 8411 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(5) If, after January 1, 1997, an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this chapter only if the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter an amount equal to the amount that, if the annuity payment was instead a payment of the employee’s or Member’s retired pay, would have been deducted and withheld and paid to the former spouse covered by the court order under such section 1408. The amount deducted and withheld under this paragraph shall be paid to that former spouse. The period of civil service employment by the employee or Member shall not be taken into consideration in determining the amount of the deductions and withholding or the amount of the payment to the former spouse. The Director of the Office of Personnel Management shall prescribe regulations to carry out this paragraph.”

Regulations.

(2) Paragraph (1) of such subsection is amended by striking “Except as provided in paragraph (2) or (3)” and inserting “Except as provided in paragraphs (2), (3), and (5)”.

5 USC 8332 note.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect on January 1, 1997.

**SEC. 638. ADMINISTRATION OF BENEFITS FOR SO-CALLED MINIMUM INCOME WIDOWS.**

(a) **ADJUSTED ANNUAL INCOME LIMITATION APPLICABLE TO ELIGIBILITY FOR INCOME SUPPLEMENT.**—(1) Section 4 of Public Law 92-425 (10 U.S.C. 1448 note) is amended—

(A) in subsection (a)(3), by striking out “\$2,340” and inserting in lieu thereof “the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code”; and

(B) in the first sentence of subsection (b), by striking out “\$2,340 a year” and inserting in lieu thereof “the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code”.

(2) Subsection (c) of such section is repealed.

(b) **PAYMENTS TO BE MADE BY SECRETARY OF VETERANS AFFAIRS.**—Such section is further amended by adding at the end the following new subsection:

“(e)(1) Payment of annuities under this section shall be made by the Secretary of Veterans Affairs. If appropriate for administrative convenience (or otherwise determined appropriate by the Secretary of Veterans Affairs), that Secretary may combine a payment to any person for any month under this section with any other payment for that month under laws administered by the Secretary so as to provide that person with a single payment for that month.

“(2) The Secretary concerned shall annually transfer to the Secretary of Veterans Affairs such amounts as may be necessary for payments by the Secretary of Veterans Affairs under this section and for costs of the Secretary of Veterans Affairs in administering this section. Such transfers shall be made from amounts that would otherwise be used for payment of annuities by the Secretary concerned under this section. The authority to make such a transfer is in addition to any other authority of the Secretary concerned to transfer funds for a purpose other than the purpose for which the funds were originally made available. In the case of a transfer by the Secretary of a military department, the provisions of section 2215 of title 10, United States Code, do not apply.

“(3) The Secretary concerned shall promptly notify the Secretary of Veterans Affairs of any change in beneficiaries under this section.”.

Notification.

(c) **CLARIFICATION OF CONTINUING ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS PENSION.**—Such section, as amended by subsection (a)(2), is further amended by inserting after subsection (b) the following new subsection (c):

“(c) The amount of an annuity payable under this section, although counted as income in determining the amount of any pension described in subsection (a)(2) of this section, shall not be considered to affect the eligibility of the recipient of such annuity for such pension, even though, as a result of including the amount of the annuity as income, no amount of such pension is due.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section take effect on July 1, 1997, and apply with respect to payments of benefits for any month after June 1997.

Applicability.  
10 USC 1448  
note.



## Subtitle E—Other Matters

### SEC. 651. DISCRETIONARY ALLOTMENT OF PAY, INCLUDING RETIRED OR RETAINER PAY.

(a) **ALLOTMENTS AUTHORIZED.**—Section 701 of title 37, United States Code, is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

Regulations.

“(d) Under regulations prescribed by the Secretary of Defense, a member of the Army, Navy, Air Force, or Marine Corps and a contract surgeon of the Army, Navy, or Air Force may make allotments from the pay of the member or surgeon for the purpose of supporting relatives or for any other purpose that the Secretary considers proper. Such allotments may include a maximum of six allotments considered to be discretionary under such regulations. For a member or former member entitled to retired or retainer pay, a maximum of six discretionary allotments authorized during active military service may be continued into retired status, and new discretionary allotments may be authorized so long as the total number of discretionary allotments does not exceed six.

“(e) If an allotment made under subsection (d) is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Secretary concerned from the officer who failed to make the report.”

37 USC 701 note.

(b) **ISSUANCE OF REGULATIONS.**—The Secretaries of the military departments shall prescribe regulations under subsection (d) of section 701 of title 37, United States Code, as added by subsection (a), not later than October 1, 1997.

### SEC. 652. REIMBURSEMENT FOR ADOPTION EXPENSES INCURRED IN ADOPTIONS THROUGH PRIVATE PLACEMENTS.

(a) **DEPARTMENT OF DEFENSE.**—Section 1052(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out “State or local government” and all that follows through the period at the end of the first sentence and inserting in lieu thereof “qualified adoption agency.”; and

(2) by adding at the end the following new paragraph:

“(3) The term ‘qualified adoption agency’ means any of the following:

“(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

“(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

“(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.”

(b) **COAST GUARD.**—Section 514(g) of title 14, United States Code, is amended—

(1) in paragraph (1), by striking out “State or local government” and all that follows through the period at the end of the first sentence and inserting in lieu thereof “qualified adoption agency.”; and

(2) by adding at the end the following new paragraph:

“(3) The term ‘qualified adoption agency’ means any of the following:

“(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

“(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

“(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.”.

**SEC. 653. WAIVER OF RECOUPMENT OF AMOUNTS WITHHELD FOR TAX PURPOSES FROM CERTAIN SEPARATION PAY.**

(a) **IN GENERAL.**—Section 1174(h)(2) of title 10, United States Code, is amended by inserting before the period at the end of the first sentence the following: “, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986)”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 1996, and shall apply to payments of separation pay, severance pay, or readjustment pay that are made after September 30, 1996.

Applicability.  
10 USC 1174  
note.

**SEC. 654. TECHNICAL CORRECTION CLARIFYING LIMITATION ON FURNISHING CLOTHING OR ALLOWANCES FOR ENLISTED NATIONAL GUARD TECHNICIANS.**

Section 418(c) of title 37, United States Code, is amended by striking out “for which a uniform allowance is paid under section 415 or 416 of this title” and inserting in lieu thereof “for which clothing is furnished or a uniform allowance is paid under this section”.

**SEC. 655. TECHNICAL CORRECTION TO PRIOR AUTHORITY FOR PAYMENT OF BACKPAY TO CERTAIN PERSONS.**

Section 634 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 366) is amended—

(1) in subsection (b)(1), by striking out “Island of Bataan” and inserting in lieu thereof “peninsula of Bataan or island of Corregidor”; and

(2) in subsection (c), by inserting after the first sentence the following: “For the purposes of this subsection, the Secretary of War shall be deemed to have determined that conditions in the Philippines during the specified period justified payment under applicable regulations of quarters and subsistence allowances at the maximum special rate for duty where emergency conditions existed.”.

50 USC app.  
2005 note.

**SEC. 656. COMPENSATION FOR PERSONS AWARDED PRISONER OF WAR MEDAL WHO DID NOT PREVIOUSLY RECEIVE COMPENSATION AS A PRISONER OF WAR.**

(a) **AUTHORITY TO MAKE PAYMENTS.**—The Secretary of the military department concerned shall make payments in the manner provided in section 6 of the War Claims Act of 1948 (50 U.S.C. App. 2005) to (or on behalf of) any person described in subsection (b) who submits an application for such payment in accordance with subsection (d).

(b) **ELIGIBLE PERSONS.**—This section applies with respect to a member or former member of the Armed Forces who—

(1) has received the prisoner of war medal under section 1128 of title 10, United States Code; and

(2) has not previously received a payment under section 6 of the War Claims Act of 1948 (50 U.S.C. App. 2005) with respect to the period of internment for which the person received the prisoner of war medal.

(c) **AMOUNT OF PAYMENT.**—The amount of the payment to any person under this section shall be determined based upon the provisions of section 6 of the War Claims Act of 1948 that are applicable with respect to the period of time during which the internment occurred for which the person received the prisoner of war medal.

(d) **ONE-YEAR PERIOD FOR SUBMISSION OF APPLICATIONS.**—A payment may be made by reason of this section only in the case of a person who submits an application to the Secretary concerned for such payment during the one-year period beginning on the date of the enactment of this Act. Any such application shall be submitted in such form and manner as the Secretary may require.

**SEC. 657. PAYMENTS TO CERTAIN PERSONS CAPTURED AND INTERNED BY NORTH VIETNAM.**

(a) **PAYMENT AUTHORIZED TO ELIGIBLE PERSONS.**—(1) Using amounts made available under subsection (g), the Secretary of Defense shall make a payment under this section to a person who demonstrates to the satisfaction of the Secretary of Defense that the person was captured and incarcerated by the Democratic Republic of Vietnam as a result of the participation by the person in operations conducted under OPLAN 34A or its predecessor.

(2) Using amounts made available under subsection (g), the Secretary of Defense shall also make a payment under this section to a person who demonstrates to the satisfaction of the Secretary of Defense that the person—

(A) served as a Vietnamese operative pursuant to OPLAN 35;

(B) was captured and incarcerated by North Vietnamese forces as a result of the participation by the person in operations in Laos or along the Lao-Vietnamese border pursuant to OPLAN 35;

(C) remained in captivity after 1973 (or died in captivity); and

(D) has not previously received payment from the United States for the period spent in captivity.

(3) A payment may not be made under this section to, or with respect to, a person who the Secretary of Defense determines, based on the available evidence, served in the Peoples Army of Vietnam or provided active assistance to the Government of the

Democratic Republic of Vietnam during the period from 1958 through 1975.

(b) **EFFECT OF DEATH OF ELIGIBLE PERSON.**—In the case of a decedent who would have been eligible for a payment under this section if alive, the documentation required under subsection (a) may be provided by survivors of the decedent, and the payment under this section shall be made to survivors of the decedent in the following order:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (including natural children and adopted children) of the decedent, in equal shares.

(c) **AMOUNT PAYABLE.**—The amount payable to, or with respect to, a person under this section is \$40,000. If a person can demonstrate to the Secretary of Defense that confinement or incarceration exceeded 20 years, the Secretary may pay an additional \$2,000 for each full year in excess of 20 (and a proportionate amount for a partial year), but the total amount paid to, or with respect to, a person under this section may not exceed \$50,000.

(d) **TIME LIMITATIONS.**—(1) To be eligible for a payment under this section, a claimant must file a claim for such payment with the Secretary of Defense within 18 months of the effective date of the regulations implementing this section.

(2) Not later than 18 months after receiving a claim for payment under this section, the Secretary shall determine the eligibility of the claimant for payment of the claim. Subject to subsection (f), if the Secretary determines that the claimant is eligible for the payment, the Secretary shall promptly pay the claim.

(e) **REGULATIONS.**—(1) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall include procedures by which persons may submit claims for payment under this section. Such regulations shall be prescribed not later than six months after the date of the enactment of this Act.

(2) The Secretary of Defense may establish guidelines regarding what constitutes adequate documentation for determining whether a person satisfies the requirements specified in subsection (a) regarding eligibility for a payment under this section. Such guidelines shall be established in consultation with the heads of other agencies of the Government involved with OPLAN 34A or its predecessor or OPLAN 35.

(f) **LIMITATION ON DISBURSEMENT.**—(1) The actual disbursement of a payment under this section may be made only to the person who is eligible for the payment under subsection (a) or (b) and only—

(A) upon the appearance of that person, in person, at any designated disbursement office in the United States or its territories; or

(B) at such other location or in such other manner as that person may request in writing.

(2) In the case of a claim approved for payment but not disbursed as a result of operation of paragraph (1), the Secretary of Defense shall hold the funds in trust for the person in an interest bearing account until such time as the person makes an election under such paragraph.

(g) **FUNDING.**—To the extent provided in advance for this section in appropriations Acts, of amounts authorized to be appropriated

under section 301(24) for this purpose, \$20,000,000 shall be available until expended for payments under this section.

(h) **PAYMENT IN FULL SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.**—The acceptance of payment by, or with respect to, a person under this section shall be in full satisfaction of all claims by or on behalf of that individual against the United States arising from operations under OPLAN 34A or its predecessor or OPLAN 35.

(i) **ATTORNEY FEES.**—Notwithstanding any contract, the representative of a person may not receive, for services rendered in connection with the claim of, or with respect to, a person under this section, more than 10 percent of a payment made under this section on that claim.

(j) **NO RIGHT TO JUDICIAL REVIEW.**—All determinations by the Secretary of Defense pursuant to this section are final and conclusive, notwithstanding any other provision of law. Claimants under this section have no right to judicial review, and such review is specifically precluded.

(k) **REPORTS TO CONGRESS.**—(1) Not later than 24 months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the payment of claims under this section.

(2) After the submission of the report under paragraph (1), the Secretary shall periodically submit to Congress a report on the status of payment of claims under this section.

## **TITLE VII—HEALTH CARE PROVISIONS**

### **Subtitle A—Health Care Services**

Sec. 701. Preventive health care screening for colon and prostate cancer.

Sec. 702. Implementation of requirement for Selected Reserve dental insurance plan.

Sec. 703. Dental insurance plan for military retirees and unremarried surviving spouses and certain other dependents of military retirees.

Sec. 704. Plan for health care coverage for children with medical conditions caused by parental exposure to chemical munitions while serving as members of the Armed Forces.

### **Subtitle B—TRICARE Program**

Sec. 711. CHAMPUS payment limits for TRICARE prime enrollees.

Sec. 712. Improved information exchange between military treatment facilities and TRICARE program contractors.

Sec. 713. Plans for medicare subvention demonstration programs.

### **Subtitle C—Uniformed Services Treatment Facilities**

Sec. 721. Definitions.

Sec. 722. Inclusion of designated providers in uniformed services health care delivery system.

Sec. 723. Provision of uniform benefit by designated providers.

Sec. 724. Enrollment of covered beneficiaries.

Sec. 725. Application of CHAMPUS payment rules.

Sec. 726. Payments for services.

Sec. 727. Repeal of superseded authorities.

### **Subtitle D—Other Changes to Existing Laws Regarding Health Care Management**

Sec. 731. Authority to waive CHAMPUS exclusion regarding nonmedically necessary treatment in connection with certain clinical trials.

Sec. 732. Exception to maximum allowable payments to individual health-care providers under CHAMPUS.

Sec. 733. Codification of annual authority to credit CHAMPUS refunds to current year appropriation.

- Sec. 734. Exceptions to requirements regarding obtaining nonavailability-of-health-care statements.
- Sec. 735. Enhancement of third-party collection and secondary payer authorities under CHAMPUS.

#### **Subtitle E—Other Matters**

- Sec. 741. Alternatives to active duty service obligation under Armed Forces Health Professions Scholarship and Financial Assistance program and Uniformed Services University of the Health Sciences.
- Sec. 742. External peer review for defense health program extramural medical research involving human subjects.
- Sec. 743. Independent research regarding Gulf War syndrome.
- Sec. 744. Comptroller General review of health care activities of Department of Defense relating to Gulf War illnesses.
- Sec. 745. Report regarding specialized treatment facility program.
- Sec. 746. Study of means of ensuring uniformity in provision of medical and dental care for members of reserve components.
- Sec. 747. Sense of Congress regarding tax treatment of Armed Forces Health Professions Scholarship and Financial Assistance program.

### **Subtitle A—Health Care Services**

#### **SEC. 701. PREVENTIVE HEALTH CARE SCREENING FOR COLON AND PROSTATE CANCER.**

(a) **MEMBERS AND FORMER MEMBERS.**—(1) Section 1074d of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by inserting “(1)” before “Female”; and

(ii) by adding at the end the following new paragraph:

“(2) Male members and former members of the uniformed services entitled to medical care under section 1074 or 1074a of this title shall also be entitled to preventive health care screening for colon or prostate cancer at such intervals and using such screening methods as the administering Secretaries consider appropriate.”; and

(B) in subsection (b), by adding at the end the following new paragraph:

“(8) Colon cancer screening, at the intervals and using the screening methods prescribed under subsection (a)(2).”.

(2)(A) The heading of such section is amended to read as follows:

#### **“§ 1074d. Certain primary and preventive health care services**

(B) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

“1074d. Certain primary and preventive health care services.”.

(b) **DEPENDENTS.**—(1) Section 1077(a) of such title is amended by adding at the end the following new paragraph:

“(14) Preventive health care screening for colon or prostate cancer, at the intervals and using the screening methods prescribed under section 1074d(a)(2) of this title.”.

(2) Section 1079(a)(2) of such title is amended—

(A) in the matter preceding subparagraph (A), by inserting “the schedule and method of colon and prostate cancer screenings,” after “pap smears and mammograms,”; and

(B) in subparagraph (B), by inserting “or colon and prostate cancer screenings” after “pap smears and mammograms”.

**SEC. 702. IMPLEMENTATION OF REQUIREMENT FOR SELECTED RESERVE DENTAL INSURANCE PLAN.**

(a) **IMPLEMENTATION BY CONTRACT.**—Subsection (a) of section 1076b of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(a) AUTHORITY TO ESTABLISH PLAN.—”;

(2) by designating the third sentence as paragraph (3); and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following new paragraph:

“(2) The Secretary shall provide benefits under the plan through one or more contracts awarded after full and open competition.”.

Procedures.

(b) **COLLECTION OF PREMIUMS OF MEMBERS NOT RECEIVING BASIC PAY.**—Subsection (b)(3) of such section is amended by adding at the end the following: “In the case of a member who does not receive basic pay, the Secretary of Defense shall establish procedures for the collection of the member’s share of the premium for coverage.”.

(c) **SCHEDULE FOR IMPLEMENTATION.**—Section 705(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 373; 10 U.S.C. 1076b note) is amended—

(1) in the first sentence, by striking out “October 1, 1996” and inserting in lieu thereof “October 1, 1997”; and

(2) by striking out “fiscal year 1996” both places it appears and inserting in lieu thereof “fiscal years 1996 and 1997”.

**SEC. 703. DENTAL INSURANCE PLAN FOR MILITARY RETIREES AND UNREMARIED SURVIVING SPOUSES AND CERTAIN OTHER DEPENDENTS OF MILITARY RETIREES.**

(a) **ESTABLISHMENT OF DENTAL PLAN.**—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076b the following new section:

**“§ 1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents**

“(a) **REQUIREMENT FOR PLAN.**—The Secretary of Defense shall establish a dental insurance plan for military retirees, certain unremarried surviving spouses, and dependents in accordance with this section.

“(b) **PERSONS ELIGIBLE FOR PLAN.**—The following persons are eligible to enroll in the dental insurance plan established under subsection (a):

“(1) Members of the Armed Forces who are entitled to retired pay.

“(2) Members of the Retired Reserve who would be entitled to retired pay under chapter 1223 of this title but for being under 60 years of age.

“(3) Eligible dependents of a member described in paragraph (1) or (2) who are covered by the enrollment of the member in the plan.

“(4) The unremarried surviving spouse and eligible child dependents of a deceased member—

“(A) who dies while in a status described in paragraph (1) or (2); or

“(B) who is described in section 1448(d)(1) of this title.

“(c) PREMIUMS.—(1) A member enrolled in the dental insurance plan established under subsection (a) shall pay the premiums charged for the insurance coverage.

“(2) The amount of the premiums payable by a member entitled to retired pay shall be deducted and withheld from the retired pay and shall be disbursed to pay the premiums. The regulations prescribed under subsection (h) shall specify the procedures for payment of the premiums by other enrolled members and by enrolled surviving spouses.

“(d) BENEFITS AVAILABLE UNDER THE PLAN.—The dental insurance plan established under subsection (a) shall provide benefits for basic dental care and treatment, including diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services.

“(e) COVERAGE.—(1) The Secretary shall prescribe a minimum required period for enrollment by a member or surviving spouse in the dental insurance plan established under subsection (a).

“(2) The dental insurance plan shall provide for voluntary enrollment of participants and shall authorize a member or eligible unmarried surviving spouse to enroll for self only or for self and eligible dependents.

“(f) TERMINATION OF ENROLLMENT.—The Secretary shall terminate the enrollment of any enrollee, and any eligible dependents of the enrollee covered by the enrollment, in the dental insurance plan established under subsection (a) upon the occurrence of the following:

“(1) In the case of an enrollment under subsection (b)(1), termination of the member’s entitlement to retired pay.

“(2) In the case of an enrollment under subsection (b)(2), termination of the member’s status as a member of the Retired Reserve.

“(3) In the case of an enrollment under subsection (b)(4), remarriage of the surviving spouse.

“(g) CONTINUATION OF DEPENDENTS’ ENROLLMENT UPON DEATH OF ENROLLEE.—Coverage of a dependent in the dental insurance plan established under subsection (a) under an enrollment of a member or a surviving spouse who dies during the period of enrollment shall continue until the end of that period and may be renewed by (or for) the dependent, so long as the premium paid is sufficient to cover continuation of the dependent’s enrollment. The Secretary may terminate coverage of the dependent when the premiums paid are no longer sufficient to cover continuation of the enrollment. The Secretary shall prescribe in regulations under subsection (h) the parties responsible for paying the remaining premiums due on the enrollment and the manner for collection of the premiums.

“(h) REGULATIONS.—The dental insurance plan established under subsection (a) shall be administered under regulations prescribed by the Secretary of Defense, in consultation with the Secretary of Transportation.

“(i) DEFINITIONS.—In this section:

“(1) The term ‘eligible dependent’ means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

“(2) The term ‘eligible child dependent’ means a dependent described in subparagraph (D) or (I) of section 1072(2) of this title.

“(3) The term ‘retired pay’ includes retainer pay.”



(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076b the following new item:

“1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents.”.

10 USC 1076c  
note.

(b) IMPLEMENTATION.—Beginning not later than October 1, 1997, the Secretary of Defense shall—

(1) offer members of the Armed Forces and other persons described in subsection (b) of section 1076c of title 10, United States Code (as added by subsection (a)(1) of this section), the opportunity to enroll in the dental insurance plan required under that section; and

(2) begin to provide benefits under the plan.

**SEC. 704. PLAN FOR HEALTH CARE COVERAGE FOR CHILDREN WITH MEDICAL CONDITIONS CAUSED BY PARENTAL EXPOSURE TO CHEMICAL MUNITIONS WHILE SERVING AS MEMBERS OF THE ARMED FORCES.**

(a) PLAN REQUIRED.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall develop a plan for ensuring the provision of medical care to any natural child of a member of the Armed Forces (including former members and members discharged or otherwise separated from active duty) who has a congenital defect or catastrophic illness, proven to a reasonable degree of scientific certainty on the basis of scientific research to have resulted from exposure of the member to a chemical warfare agent or other hazardous material to which the member was exposed during active military service.

(b) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit the plan developed under subsection (a) to Congress.

Regulations.

(c) DEFINITIONS OF CONGENITAL DEFECT AND CATASTROPHIC ILLNESS.—The Secretary of Defense shall prescribe in regulations a definition of the terms “congenital defect” and “catastrophic illness” for the purposes of this section.

## Subtitle B—TRICARE Program

**SEC. 711. CHAMPUS PAYMENT LIMITS FOR TRICARE PRIME ENROLLEES.**

Section 1079(h)(4) of title 10, United States Code, is amended in the second sentence by striking out “emergency”.

**SEC. 712. IMPROVED INFORMATION EXCHANGE BETWEEN MILITARY TREATMENT FACILITIES AND TRICARE PROGRAM CONTRACTORS.**

(a) UNIFORM INTERFACES.—The Secretary of Defense shall ensure that the automated medical information system being developed by the Department of Defense (known as the Composite Health Care System) provides for uniform interfaces between information systems of military treatment facilities and private contractors under managed care programs of the TRICARE program. The uniform interface shall provide for a full electronic two-way exchange of health care information between the military treatment facilities and contractor information systems, including enrollment information, information regarding eligibility determinations, provider net-

work information, appointment information, and information regarding the existence of third-party payers.

(b) **AMENDMENT OF EXISTING CONTRACTS.**—To assure a single consistent source of information throughout the health care delivery system of the uniformed services, the Secretary of Defense shall amend each TRICARE program contract, with the consent of the TRICARE program contractor and notwithstanding any requirement for competition, to require the contractor—

(1) to use software furnished under the Composite Health Care System to record military treatment facility provider appointments; and

(2) to record TRICARE program enrollment through direct use of the Composite Health Care System software or through the uniform two-way interface between the contractor and military treatment facilities systems, where applicable.

(c) **DEFINITION OF TRICARE PROGRAM.**—For purposes of this section, the term “TRICARE program” means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

**SEC. 713. PLANS FOR MEDICARE SUBVENTION DEMONSTRATION PROGRAMS.** Reports.

(a) **PROGRAM FOR ENROLLMENT IN TRICARE MANAGED CARE OPTION.**—Not later than September 6, 1996, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress and the President a report containing a specific plan (including the recommendations of the Secretaries required under subsection (b)) regarding the establishment of a demonstration program under which—

(1) covered beneficiaries under chapter 55 of title 10, United States Code, who are also entitled to benefits under part A of the Medicare program are permitted to enroll in the managed care option of the TRICARE program; and

(2) the Secretary of Health and Human Services reimburses the Secretary of Defense from the Medicare program on a capitated basis for the costs of providing health care services to military retirees who enroll.

(b) **SPECIFIC ELEMENTS OF REPORT.**—The report shall include the following:

(1) The number of covered beneficiaries described in subsection (a) who are projected to participate in the demonstration program and the minimum number of such participants necessary to conduct the demonstration program effectively.

(2) A plan for notifying such covered beneficiaries of their eligibility for enrollment in the demonstration program and for any other matters connected with enrollment.

(3) A recommendation for the duration of the demonstration program.

(4) A recommendation for the geographic regions in which the demonstration program should be conducted.

(5) The appropriate level of capitated reimbursement, and a schedule for such reimbursement, from the Medicare program

to the Department of Defense for health care services provided enrollees in the demonstration program.

(6) An estimate of the amounts that, in the absence of the demonstration program, would be required to be allocated by the Department of Defense for the provision of health care services to covered beneficiaries described in subsection (a) who reside in the regions in which the demonstration program is proposed to be conducted.

(7) An assessment of revisions to the allocation estimated under paragraph (6) that would result from the conduct of the demonstration program in such regions.

(8) An estimate of the cost to the Department of Defense and to the Medicare program of providing health care services to covered beneficiaries described in subsection (a) who enroll in the demonstration program.

(9) An assessment of the likelihood of cost shifting among the Department of Defense and the Medicare program under the demonstration program.

(10) A proposal for mechanisms for reconciling and reimbursing any improper payments among the Department of Defense and the Medicare program under the demonstration program.

(11) A methodology for evaluating the demonstration program, including cost analyses.

(12) An assessment of the extent to which the TRICARE program is prepared to meet requirements of the Medicare program for purposes of the demonstration program and the provisions of law or regulation that would have to be waived in order to facilitate the carrying out of the demonstration program.

(13) An assessment of the impact of the demonstration program on military readiness.

(14) Contingency plans for the provision of health care services under the demonstration program in the event of the mobilization of health care personnel.

(15) A recommendation of the reports that the Department of Defense and the Department of Health and Human Services should submit to Congress describing the conduct of the demonstration program.

(c) PROGRAM FOR ENROLLMENT IN TRICARE FEE-FOR-SERVICE OPTION.—Not later than January 3, 1997, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress and the President a report on the feasibility and advisability of expanding the demonstration program referred to in subsection (a) so as to provide the Department of Defense with reimbursement from the Medicare program on a fee-for-service basis for health care services provided covered beneficiaries described in subsection (a) who enroll in the demonstration program. The report shall include a proposal for the expansion of the program if the expansion is determined to be advisable.

10 USC 1073  
note.

## Subtitle C—Uniformed Services Treatment Facilities

### SEC. 721. DEFINITIONS.

In this subtitle:

(1) The term “administering Secretaries” means the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services.

(2) The term “agreement” means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term “capitation payment” means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) The term “covered beneficiary” means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(5) The term “designated provider” means a public or non-profit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 248b) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term “enrollee” means a covered beneficiary who enrolls with a designated provider.

(7) The term “health care services” means the health care services provided under the health plan known as the “TRICARE PRIME” option under the TRICARE program.

(8) The term “Secretary” means the Secretary of Defense.

(9) The term “TRICARE program” means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

#### **SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.**

(a) **INCLUSION IN SYSTEM.**—The health care delivery system of the uniformed services shall include the designated providers.

(b) **AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.**—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider under which the designated provider will provide health care services in or through managed care plans to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) **EFFECTIVE DATE OF AGREEMENTS.**—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) Notwithstanding paragraph (1), the designated provider whose service area includes Seattle, Washington, shall implement its agreement as soon as the agreement permits.

(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 42 U.S.C. 248c) until the agreement required by this section takes effect under subsection (c).

(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

#### SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1997.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

**SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.**

(a) **FISCAL YEAR 1997 LIMITATION.**—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) **PERMANENT LIMITATION.**—For each fiscal year beginning after September 30, 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) **RETENTION OF CURRENT ENROLLEES.**—An enrollee in the managed care plan of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) **ADDITIONAL ENROLLMENT AUTHORITY.**—Other covered beneficiaries may also receive health care services from a designated provider, except that the designated provider may market such services to, and enroll, only those covered beneficiaries who—

(1) do not have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services; or

(2) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(e) **SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.**—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(f) **INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.**—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

**SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.**

(a) **APPLICATION OF PAYMENT RULES.**—Subject to subsection (b), the Secretary shall require a private facility or health care

provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) **AUTHORIZED ADJUSTMENTS.**—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) **REGULATIONS.**—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

(d) **CONFORMING AMENDMENT.**—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

#### **SEC. 726. PAYMENTS FOR SERVICES.**

(a) **FORM OF PAYMENT.**—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for health care services provided by a designated provider shall be on a full risk capitation payment basis. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) **LIMITATION ON TOTAL PAYMENTS.**—Total capitation payments for health care services to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received such health care services through a military treatment facility, the TRICARE program, or the Medicare program, as the case may be.

(c) **ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.**—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program under this subtitle.

(d) **ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.**—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

#### **SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.**

(a) **REPEALS.**—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 42 U.S.C. 248c note).

(b) **EFFECTIVE DATE.**—The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall take effect on October 1, 1997.

## **Subtitle D—Other Changes to Existing Laws Regarding Health Care Management**

### **SEC. 731. AUTHORITY TO WAIVE CHAMPUS EXCLUSION REGARDING NONMEDICALLY NECESSARY TREATMENT IN CONNECTION WITH CERTAIN CLINICAL TRIALS.**

(a) **WAIVER AUTHORITY.**—Paragraph (13) of section 1079(a) of title 10, United States Code, is amended—

(1) by striking out “any service” and inserting in lieu thereof “Any service”;

(2) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) by adding at the end the following: “Pursuant to an agreement with the Secretary of Health and Human Services and under such regulations as the Secretary of Defense may prescribe, the Secretary of Defense may waive the operation of this paragraph in connection with clinical trials sponsored or approved by the National Institutes of Health if the Secretary of Defense determines that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.”.

(b) **CLERICAL AMENDMENTS.**—Such section is further amended—

(1) in the matter preceding paragraph (1), by striking out “except that—” and inserting in lieu thereof “except as follows.”;

(2) by capitalizing the first letter of the first word of each of paragraphs (1) through (17);

(3) by striking out the semicolon at the end of each of paragraphs (1) through (12) and paragraphs (14) and (15) and inserting in lieu thereof a period; and

(4) in paragraph (16), by striking out “; and” and inserting in lieu thereof a period.

### **SEC. 732. EXCEPTION TO MAXIMUM ALLOWABLE PAYMENTS TO INDIVIDUAL HEALTH-CARE PROVIDERS UNDER CHAMPUS.**

Section 1079(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

“(5) In addition to the authority provided under paragraph (4), the Secretary may authorize the commander of a facility of the uniformed services, the lead agent (if other than the commander), and the health care contractor to modify the payment limitations under paragraph (1) for certain health care providers when necessary to ensure both the availability of certain services for covered beneficiaries and lower costs than would otherwise be incurred to provide the services.”.

### **SEC. 733. CODIFICATION OF ANNUAL AUTHORITY TO CREDIT CHAMPUS REFUNDS TO CURRENT YEAR APPROPRIATION.**

(a) **CREDITS TO CHAMPUS ACCOUNTS.**—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1079 the following new section:



**“§ 1079a. CHAMPUS: treatment of refunds and other amounts collected**

“All refunds and other amounts collected in the administration of the Civilian Health and Medical Program of the Uniformed Services shall be credited to the appropriation available for that program for the fiscal year in which the refund or amount is collected.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1079 the following new item:

“1079a. CHAMPUS: treatment of refunds and other amounts collected.”

(b) CONFORMING REPEAL.—Section 8094 of the Department of Defense Appropriations Act, 1996 (Public Law 104-61; 109 Stat. 671), is repealed.

**SEC. 734. EXCEPTIONS TO REQUIREMENTS REGARDING OBTAINING NONAVAILABILITY-OF-HEALTH-CARE STATEMENTS.**

(a) REFERENCE TO INPATIENT MEDICAL CARE.—(1) Section 1080(a) of title 10, United States Code, is amended by inserting “inpatient” before “medical care” in the first sentence.

(2) Section 1086(e) of such title is amended in the first sentence by striking out “benefits” and inserting in lieu thereof “inpatient medical care”.

(b) WAIVERS AND EXCEPTIONS TO REQUIREMENTS.—(1) Section 1080 of such title is amended by adding at the end the following new subsection:

“(c) WAIVERS AND EXCEPTIONS TO REQUIREMENTS.—(1) A covered beneficiary enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter for the provision of health care services shall not be required to obtain a nonavailability-of-health-care statement as a condition for the receipt of health care.

“(2) The Secretary of Defense may waive the requirement to obtain nonavailability-of-health-care statements following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services.”

(2) Section 1086(e) of such title is amended in the last sentence by striking out “section 1080(b)” and inserting in lieu thereof “subsections (b) and (c) of section 1080”.

(c) CONFORMING AMENDMENTS.—Section 1080(b) of such title is amended—

(1) by striking out “NONAVAILABILITY OF HEALTH CARE STATEMENTS” and inserting in lieu thereof “NONAVAILABILITY-OF-HEALTH-CARE STATEMENTS”; and

(2) by striking out “nonavailability of health care statement” and inserting in lieu thereof “nonavailability-of-health-care statement”.

**SEC. 735. ENHANCEMENT OF THIRD-PARTY COLLECTION AND SECONDARY PAYER AUTHORITIES UNDER CHAMPUS.**

(a) RETENTION AND USE BY TREATMENT FACILITIES OF AMOUNTS COLLECTED.—Subsection (g)(1) of section 1095 of title 10, United States Code, is amended by inserting “or through” after “provided at”.

(b) EXPANSION OF DEFINITION OF THIRD-PARTY PAYER.—Subsection (h) of such section is amended—

(1) in the first sentence of paragraph (1), by inserting “and a workers’ compensation program or plan” before the period; and

(2) in paragraph (2)—

(A) by striking out “organization and” and inserting in lieu thereof a “organization,”; and

(B) by inserting before the period at the end the following: “, and a personal injury protection plan or medical payments benefit plan for personal injuries resulting from the operation of a motor vehicle”.

(c) **APPLICABILITY OF SECONDARY PAYER REQUIREMENT.**—Section 1079(j)(1) of such title is amended by inserting after “or health plan” the following: “, including any plan offered by a third-party payer (as defined in section 1095(h)(1) of this title),”.

## Subtitle E—Other Matters

### SEC. 741. ALTERNATIVES TO ACTIVE DUTY SERVICE OBLIGATION UNDER ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM AND UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) **ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.**—Subsection (e) of section 2123 of title 10, United States Code, is amended to read as follows:

“(e)(1) A member of the program who is relieved of the member’s active duty obligation under this subchapter before the completion of that active duty obligation may be given, with or without the consent of the member, any of the following alternative obligations, as determined by the Secretary of the military department concerned:

“(A) A service obligation in another armed force for a period of time not less than the member’s remaining active duty service obligation.

“(B) A service obligation in a component of the Selected Reserve for a period not less than twice as long as the member’s remaining active duty service obligation.

“(C) Repayment to the Secretary of Defense of a percentage of the total cost incurred by the Secretary under this subchapter on behalf of the member equal to the percentage of the member’s total active duty service obligation being relieved, plus interest.

“(2) In addition to the alternative obligations specified in paragraph (1), if the member is relieved of an active duty obligation by reason of the separation of the member because of a physical disability, the Secretary of the military department concerned may give the member a service obligation as a civilian employee employed as a health care professional in a facility of the uniformed services for a period of time equal to the member’s remaining active duty service obligation.

“(3) The Secretary of Defense shall prescribe regulations describing the manner in which an alternative obligation may be given under this subsection.”.

Regulations.

(b) **UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.**—Section 2114 of title 10, United States Code is amended by adding at the end the following new subsection:

“(h) A graduate of the University who is relieved of the graduate’s active-duty service obligation under subsection (b) before the completion of that active-duty service obligation may be given, with or without the consent of the graduate, an alternative obligation in the same manner as provided in subparagraphs (A) and (B) of paragraph (1) of section 2123(e)(1) of this title or paragraph (2) of such section for members of the Armed Forces Health Professions Scholarship and Financial Assistance program.”

10 USC 2114  
note.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to individuals who first become members of the Armed Forces Health Professions Scholarship and Financial Assistance program or students of the Uniformed Services University of the Health Sciences on or after October 1, 1996.

10 USC 2123  
note.

(d) TRANSITION PROVISION.—(1) In the case of any member of the Armed Forces Health Professions Scholarship and Financial Assistance program who, as of October 1, 1996, is serving an active duty obligation under the program or is incurring an active duty obligation as a participant in the program, and who is subsequently relieved of the active duty obligation before the completion of the obligation, the alternative obligations authorized by the amendment made by subsection (a) may be used by the Secretary of the military department concerned with the agreement of the member.

10 USC 2114  
note.

(2) In the case of any person who, as of October 1, 1996, is serving an active-duty service obligation as a graduate of the Uniformed Services University of the Health Sciences or is incurring an active-duty service obligation as a student of the University, and who is subsequently relieved of the active-duty service obligation before the completion of the obligation, the alternative obligations authorized by the amendment made by subsection (b) may be implemented by the Secretary of Defense with the agreement of the person.

(e) REPORT ON UTILIZATION OF GRADUATES OF UNIVERSITY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the utilization by the Department of Defense of graduates of the Uniformed Services University of the Health Sciences. The report shall include a discussion of means of ensuring that graduates of the University have received training in medical specialties for which the Department has particular need.

10 USC 1071  
note.

**SEC. 742. EXTERNAL PEER REVIEW FOR DEFENSE HEALTH PROGRAM  
EXTRAMURAL MEDICAL RESEARCH INVOLVING HUMAN  
SUBJECTS.**

(a) ESTABLISHMENT OF EXTERNAL PEER REVIEW PROCESS.—The Secretary of Defense shall establish a peer review process that will use persons who are not officers or employees of the Government to review the research protocols of medical research projects.

(b) PEER REVIEW REQUIREMENTS.—Funds of the Department of Defense may not be obligated or expended for any medical research project unless the research protocol for the project has been approved by the external peer review process established under subsection (a).

(c) MEDICAL RESEARCH PROJECT DEFINED.—For purposes of this section, the term “medical research project” means a research project that—

(1) involves the participation of human subjects;

(2) is conducted solely by a non-Federal entity; and

(3) is funded through the Defense Health Program account.

(d) **EFFECTIVE DATE.**—The peer review requirements of subsection (b) shall take effect on October 1, 1996, and, except as provided in subsection (e), shall apply to all medical research projects proposed funded on or after that date, including medical research projects funded pursuant to any requirement of law enacted before, on, or after that date. Applicability.

(e) **EXCEPTIONS.**—Only the following medical research projects shall be exempt from the peer review requirements of subsection (b):

(1) A medical research project that the Secretary determines has been substantially completed by October 1, 1996.

(2) A medical research project funded pursuant to any provision of law enacted on or after that date if the provision of law specifically refers to this section and specifically states that the peer review requirements do not apply.

**SEC. 743. INDEPENDENT RESEARCH REGARDING GULF WAR SYNDROME.** 10 USC 1074  
note.

(a) **DEFINITIONS.**—For purposes of this section:

(1) The term “Gulf War service” means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(2) The term “Gulf War syndrome” means the complex of illnesses and symptoms commonly known as Gulf War syndrome.

(3) The term “Persian Gulf War” has the meaning given that term in section 101(33) of title 38, United States Code.

(b) **RESEARCH.**—The Secretary of Defense shall provide, by contract, grant, or other transaction, for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between Gulf War syndrome and—

(1) the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service; and

(2) the use by the Department of Defense during the Persian Gulf War of combinations of various inoculations and investigational new drugs.

(c) **PROCEDURES FOR AWARDED GRANTS.**—The Secretary shall prescribe the procedures to be used to make research awards under subsection (b). The procedures shall—

(1) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(2) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(d) **AVAILABILITY OF FUNDS.**—Of the amount authorized to be appropriated under section 301(21) for defense medical programs, \$10,000,000 is available for research under subsection (b).

**SEC. 744. COMPTROLLER GENERAL REVIEW OF HEALTH CARE ACTIVITIES OF DEPARTMENT OF DEFENSE RELATING TO GULF WAR ILLNESSES.**

(a) **MEDICAL RESEARCH AND CLINICAL CARE PROGRAMS.**—The Comptroller General shall analyze the effectiveness of the medical research programs and clinical care programs of the Department

of Defense that relate to illnesses that might have been contracted by members of the Armed Forces as a result of service in the Southwest Asia theater of operations during the Persian Gulf War.

(b) **POLICIES REGARDING INVESTIGATIONAL NEW DRUGS.**—The Comptroller General shall analyze the scope and effectiveness of the policies of the Department of Defense with respect to—

(1) the use of investigational new drugs during the Persian Gulf War to treat members of the Armed Forces who served in the Southwest Asia theater of operations; and

(2) the current use of investigational new drugs to treat illnesses referred to in subsection (a).

(c) **ADMINISTRATION OF MEDICAL RECORDS.**—The Comptroller General shall analyze the administration of medical records by the military departments in order to assess the extent to which such records accurately reflect the pre-deployment medical assessments, immunization records, informed consent releases, complaints during routine sick call, emergency room visits, visits with unit medics during deployment, and other relevant medical information relating to the members and former members referred to in subsection (a) with respect to the illnesses referred to in that subsection.

(d) **REPORTS.**—Not later than March 1, 1997, the Comptroller General shall submit to Congress a separate report on each of the analyses required under subsections (a), (b), and (c).

**SEC. 745. REPORT REGARDING SPECIALIZED TREATMENT FACILITY PROGRAM.**

Not later than April 1, 1997, the Secretary of Defense shall submit to Congress a report evaluating the impact on the military health care system of limiting the service area of a facility designated as part of the specialized treatment facility program under section 1105 of title 10, United States Code, to not more than 100 miles from the facility.

**SEC. 746. STUDY OF MEANS OF ENSURING UNIFORMITY IN PROVISION OF MEDICAL AND DENTAL CARE FOR MEMBERS OF RESERVE COMPONENTS.**

(a) **STUDY.**—(1) In consultation with the Secretary of Transportation, the Secretary of Defense shall conduct a study of means of improving the provision of medical and dental care to members of the reserve components referred to in paragraph (2) in order to ensure uniformity and consistency in the provision of such care to such members.

(2) The members of the reserve components referred to in paragraph (1) are the following:

(A) Members on active duty, including active duty for training and annual training duty.

(B) Members on full-time National Guard duty.

(C) Members on inactive-duty training, regardless of whether such members are in a pay or nonpay status.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study conducted under subsection (a). The report shall include such recommendations (including recommendations for legislation) as the Secretary considers appropriate.

**SEC. 747. SENSE OF CONGRESS REGARDING TAX TREATMENT OF  
ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP  
AND FINANCIAL ASSISTANCE PROGRAM.**

It is the sense of Congress that the Secretary of Defense should work with the Secretary of the Treasury to interpret section 117 of the Internal Revenue Code of 1986 so that the limitation on the amount of a qualified scholarship or qualified tuition reduction excluded from gross income does not apply to any portion of a scholarship or financial assistance provided by the Secretary of Defense to a person enrolled in the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of title 10, United States Code.

**TITLE VIII—ACQUISITION POLICY,  
ACQUISITION MANAGEMENT, AND  
RELATED MATTERS**

**Subtitle A—Acquisition Management**

- Sec. 801. Procurement technical assistance programs.
- Sec. 802. Extension of pilot mentor-protége program.
- Sec. 803. Authority to waive certain requirements for defense acquisition pilot programs.
- Sec. 804. Modification of authority to carry out certain prototype projects.
- Sec. 805. Increase in threshold amounts for major systems.
- Sec. 806. Revisions in information required to be included in selected acquisition reports.
- Sec. 807. Increase in simplified acquisition threshold for humanitarian or peace-keeping operations.
- Sec. 808. Expansion of audit reciprocity among Federal agencies to include post-award audits.
- Sec. 809. Excessive compensation of certain contractor personnel.
- Sec. 810. Exception to prohibition on procurement of foreign goods.

**Subtitle B—Other Matters**

- Sec. 821. Prohibition on release of contractor proposals under Freedom of Information Act.
- Sec. 822. Amendments relating to reports on procurement regulatory activity.
- Sec. 823. Amendment of multiyear limitation on contracts for inspection, maintenance, and repair.
- Sec. 824. Streamlined notice requirements to contractors and employees regarding termination or substantial reduction in contracts under major defense programs.
- Sec. 825. Repeal of notice requirements for substantially or seriously affected parties in downsizing efforts.
- Sec. 826. Study of effectiveness of defense mergers.
- Sec. 827. Annual report relating to Buy American Act.
- Sec. 828. Foreign environmental technology.
- Sec. 829. Assessment of national defense technology and industrial base and dependency of base on supplies available only from foreign countries.
- Sec. 830. Expansion of report on implementation of automated information systems to include additional matters regarding information resources management.
- Sec. 831. Year 2000 software conversion.
- Sec. 832. Procurement from firms in industrial base for production of small arms.
- Sec. 833. Cable television franchise agreements.

**Subtitle A—Acquisition Management**

**SEC. 801. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.**

(a) **FUNDING.**—Of the amount authorized to be appropriated under section 301(5), \$12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) **SPECIFIC PROGRAMS.**—Of the amounts made available pursuant to subsection (a), \$600,000 shall be available for fiscal year 1997 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

**SEC. 802. EXTENSION OF PILOT MENTOR-PROTEGE PROGRAM.**

Section 831(j) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note) is amended—

- (1) in paragraph (1), by striking out “1995” and inserting in lieu thereof “1998”; and
- (2) in paragraph (2), by striking out “1996” and inserting in lieu thereof “1999”.

10 USC 2430  
note.

**SEC. 803. AUTHORITY TO WAIVE CERTAIN REQUIREMENTS FOR DEFENSE ACQUISITION PILOT PROGRAMS.**

(a) **AUTHORITY.**—The Secretary of Defense may waive sections 2399, 2403, 2432, and 2433 of title 10, United States Code, in accordance with this section for any defense acquisition program designated by the Secretary of Defense for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2430 note).

(b) **OPERATIONAL TEST AND EVALUATION.**—The Secretary of Defense may waive the requirements for operational test and evaluation for such a defense acquisition program as set forth in section 2399 of title 10, United States Code, if the Secretary—

- (1) determines (without delegation) that such test would be unreasonably expensive or impractical;
- (2) develops a suitable alternate operational test program for the system concerned;
- (3) describes in the test and evaluation master plan, as approved by the Director of Operational Test and Evaluation, the method of evaluation that will be used to evaluate whether the system will be effective and suitable for combat; and

(4) submits to the congressional defense committees a report containing the determination that was made under paragraph (1), a justification for that determination, and a copy of the plan required by paragraph (3).

Reports.

(c) **CONTRACTOR GUARANTEES FOR MAJOR WEAPONS SYSTEMS.**—The Secretary of Defense may waive the requirements of section 2403 of title 10, United States Code, for such a defense acquisition program if an alternative guarantee is used that ensures high quality weapons systems.

(d) **SELECTED ACQUISITION REPORTS.**—The Secretary of Defense may waive the requirements of sections 2432 and 2433 of title 10, United States Code, for such a defense acquisition program if the Secretary provides a single annual report to Congress at the end of each fiscal year that describes the status of the program in relation to the baseline description for the program established under section 2435 of such title.

**SEC. 804. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.**

(a) **AUTHORIZED OFFICIALS.**—(1) Subsection (a) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1721; 10 U.S.C. 2371 note) is amended by inserting “, the Secretary of a military department, or any other official designated by the Secretary of Defense” after “Agency”.

(2) Subsection (b)(2) of such section is amended to read as follows:

“(2) To the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a).”.

(b) **EXTENSION OF AUTHORITY.**—Subsection (c) of such section is amended by striking out “terminate” and all that follows and inserting in lieu thereof “terminate at the end of September 30, 1999.”

(c) **CONFORMING AND TECHNICAL AMENDMENTS.**—Section 845 of such Act is further amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out “(c)(2) and (c)(3) of such section 2371, as redesignated by section 827(b)(1)(B),” and inserting in lieu thereof “(e)(2) and (e)(3) of such section 2371”; and

(B) in paragraph (2), by inserting after “Director” the following: “, Secretary, or other official”; and

(2) in subsection (c), by striking out “of the Director”.

**SEC. 805. INCREASE IN THRESHOLD AMOUNTS FOR MAJOR SYSTEMS.**

(a) **INCREASE AND ADJUSTMENT.**—Chapter 137 of title 10, United States Code, is amended—

(1) in section 2302(5), by striking out the third sentence and inserting in lieu thereof the following: “A system shall be considered a major system if (A) the conditions of section 2302d of this title are satisfied, or (B) the system is designated a ‘major system’ by the head of the agency responsible for the system.”; and

(2) by inserting after section 2302c the following:

**“§ 2302d. Major system: definitional threshold amounts**

“(a) **DEPARTMENT OF DEFENSE SYSTEMS.**—For purposes of section 2302(5) of this title, a system for which the Department of Defense is responsible shall be considered a major system if—

“(1) the total expenditures for research, development, test, and evaluation for the system are estimated to be more than \$115,000,000 (based on fiscal year 1990 constant dollars); or

“(2) the eventual total expenditure for procurement of more than \$540,000,000 (based on fiscal year 1990 constant dollars).

“(b) **CIVILIAN AGENCY SYSTEMS.**—For purposes of section 2302(5) of this title, a system for which a civilian agency is responsible shall be considered a major system if total expenditures for the system are estimated to exceed the greater of—

“(1) \$750,000 (based on fiscal year 1980 constant dollars); or

“(2) the dollar threshold for a ‘major system’ established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled ‘Major Systems Acquisitions’.



Effective date.  
Notification.

“(c) ADJUSTMENT AUTHORITY.—(1) The Secretary of Defense may adjust the amounts and the base fiscal year provided in subsection (a) on the basis of Department of Defense escalation rates.

“(2) An amount, as adjusted under paragraph (1), that is not evenly divisible by \$5,000,000 shall be rounded to the nearest multiple of \$5,000,000. In the case of an amount that is evenly divisible by \$2,500,000 but not evenly divisible by \$5,000,000, the amount shall be rounded to the next higher multiple of \$5,000,000.

“(3) An adjustment under this subsection shall be effective after the Secretary transmits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a written notification of the adjustment.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2302c the following:

“2302d. Major system: definitional threshold amounts.”.

**SEC. 806. REVISIONS IN INFORMATION REQUIRED TO BE INCLUDED IN SELECTED ACQUISITION REPORTS.**

Section 2432 of title 10, United States Code, is amended—

(1) in subsection (c)(1)—

(A) by striking out “and” at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph (C):

“(C) the current procurement unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted; and”;

(2) in subsection (e), by striking out paragraph (8) and redesignating paragraph (9) as paragraph (8).

**SEC. 807. INCREASE IN SIMPLIFIED ACQUISITION THRESHOLD FOR HUMANITARIAN OR PEACEKEEPING OPERATIONS.**

(a) ARMED SERVICES ACQUISITIONS.—Section 2302(7) of title 10, United States Code, is amended—

(1) by inserting “(A)” after “(7)”;

(2) by inserting after “contingency operation” the following: “or a humanitarian or peacekeeping operation”; and

(3) by adding at the end the following:

“(B) In subparagraph (A), the term ‘humanitarian or peacekeeping operation’ means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.”.

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)) is amended—

(1) by inserting “(1)” after “(d)”;

(2) by inserting after “contingency operation” the following: “or a humanitarian or peacekeeping operation”; and

(3) by adding at the end the following:

“(2) In paragraph (1):

“(A) The term ‘contingency operation’ has the meaning given such term in section 101(a) of title 10, United States Code.

“(B) The term ‘humanitarian or peacekeeping operation’ means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.”

**SEC. 808. EXPANSION OF AUDIT RECIPROCITY AMONG FEDERAL AGENCIES TO INCLUDE POST-AWARD AUDITS.**

(a) **ARMED SERVICES ACQUISITIONS.**—Subsection (d) of section 2313 of title 10, United States Code, is amended to read as follows:

“(d) **LIMITATION ON AUDITS RELATING TO INDIRECT COSTS.**—The head of an agency may not perform an audit of indirect costs under a contract, subcontract, or modification before or after entering into the contract, subcontract, or modification in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit that was conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer’s determination.”

(b) **CIVILIAN AGENCY ACQUISITIONS.**—Subsection (d) of section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) is amended to read as follows:

“(d) **LIMITATION ON AUDITS RELATING TO INDIRECT COSTS.**—An executive agency may not perform an audit of indirect costs under a contract, subcontract, or modification before or after entering into the contract, subcontract, or modification in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit that was conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer’s determination.”

(c) **GUIDELINES FOR ACCEPTANCE OF AUDITS BY STATE AND LOCAL GOVERNMENTS RECEIVING FEDERAL ASSISTANCE.**—The Director of the Office of Management and Budget shall issue guidelines to ensure that an audit of indirect costs performed by the Federal Government is accepted by State and local governments that receive Federal funds under contracts, grants, or other Federal assistance programs.

31 USC 7505  
note.

**SEC. 809. COMPENSATION OF CERTAIN CONTRACTOR PERSONNEL.**

(a) **ARMED SERVICES PROCUREMENTS.**—(1) During fiscal year 1997, the head of an agency shall treat the costs described in paragraph (2) as not allowable under a covered contract, in the same manner as costs listed in section 2324(e)(1) of title 10, United States Code.

(2) The costs covered by paragraph (1) are costs of compensation paid with respect to services of any one officer to the extent that the total amount of the compensation paid in a fiscal year exceeds \$250,000.

(b) **CIVILIAN AGENCY PROCUREMENTS.**—(1) During fiscal year 1997, an executive agency shall treat the costs described in paragraph (2) as not allowable under a covered contract, in the same manner as costs listed in section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)).

(2) The costs covered by paragraph (1) are costs of compensation paid with respect to services of any one officer to the extent that the total amount of the compensation paid in a fiscal year exceeds \$250,000.

(c) DEFINITIONS.—In this section:

(1) The term “head of an agency” has the meaning provided in section 2302 of title 10, United States Code.

(2) The term “executive agency” has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(3) The term “covered contract”—

(A) with respect to procurements subject to chapter 137 of title 10, United States Code, has the meaning provided by section 2324(l) of such title; and

(B) with respect to procurements subject to title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), has the meaning provided by section 306(l) of such Act (41 U.S.C. 256(l)).

(4) The term “compensation” means—

(A) the total amount of wages as defined in section 3401(a) of the Internal Revenue Code of 1986 for the year concerned; and

(B) the total amount of elective deferrals (within the meaning of section 402(g)(3) of such Code) for the year concerned.

(5) The term “officer” means a person who is determined to be in a senior management position as established by regulation.

(d) REVIEW.—The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense, shall conduct a comprehensive review of the levels of compensation received by senior executives of corporations performing a significant amount of business with the Federal Government in order to determine the appropriate cost allowability policy in this area. Such a review should include the following:

(1) In consultation with the Secretary of the Treasury, an examination of the appropriate definition and treatment of compensation, including deferred compensation.

(2) An examination of the appropriate definition of senior executive positions and any other positions that should be covered under the cost allowability policy.

(3) An examination of how to apply the cost allowability policy to individual contracts and aggregations of contracts within a corporation.

(4) Any other matter related to the cost allowability of executive compensation that the Administrator considers appropriate.

President.

(e) LEGISLATIVE PROPOSAL.—Not later than March 1, 1997, the President shall submit to Congress a legislative proposal incorporating the conclusions reached by the review conducted under subsection (d) and establishing a statutory Government standard on the cost allowability of executive compensation.

#### SEC. 810. EXCEPTION TO PROHIBITION ON PROCUREMENT OF FOREIGN GOODS.

Section 2534(d)(3) of title 10, United States Code, is amended by inserting “or would impede the reciprocal procurement of defense

items under a memorandum of understanding providing for reciprocal procurement of defense items that is entered into under section 2531 of this title,” after “a foreign country,”.

## Subtitle B—Other Matters

### SEC. 821. PROHIBITION ON RELEASE OF CONTRACTOR PROPOSALS UNDER FREEDOM OF INFORMATION ACT.

(a) **ARMED SERVICES ACQUISITIONS.**—Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(g) **PROHIBITION ON RELEASE OF CONTRACTOR PROPOSALS.**—(1) Except as provided in paragraph (2), a proposal in the possession or control of the Department of Defense may not be made available to any person under section 552 of title 5.

“(2) Paragraph (1) does not apply to any proposal that is set forth or incorporated by reference in a contract entered into between the Department and the contractor that submitted the proposal.

“(3) In this subsection, the term ‘proposal’ means any proposal, including a technical, management, or cost proposal, submitted by a contractor in response to the requirements of a solicitation for a competitive proposal.”.

(b) **CIVILIAN AGENCY ACQUISITIONS.**—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following new subsection:

“(m) **PROHIBITION ON RELEASE OF CONTRACTOR PROPOSALS.**—(1) Except as provided in paragraph (2), a proposal in the possession or control of an executive agency may not be made available to any person under section 552 of title 5, United States Code.

“(2) Paragraph (1) does not apply to any proposal that is set forth or incorporated by reference in a contract entered into between the agency and the contractor that submitted the proposal.

“(3) In this subsection, the term ‘proposal’ means any proposal, including a technical, management, or cost proposal, submitted by a contractor in response to the requirements of a solicitation for a competitive proposal.”.

### SEC. 822. AMENDMENTS RELATING TO REPORTS ON PROCUREMENT REGULATORY ACTIVITY.

Subsection (g) of section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) is amended—

(1) in paragraph (1)—

(A) by striking out “within 6 months after the date of enactment of this section and every 6 months thereafter” and inserting in lieu thereof “every 12 months”; and

(B) by inserting “and” after the semicolon at the end;

(2) in paragraph (2)(H), by striking out “; and” and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

### SEC. 823. AMENDMENT OF MULTIYEAR LIMITATION ON CONTRACTS FOR INSPECTION, MAINTENANCE, AND REPAIR.

Paragraph (14) of section 210(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(a)) is amended by striking out “for periods not exceeding three years” and inserting in lieu thereof “for periods not exceeding five years”.

**SEC. 824. STREAMLINED NOTICE REQUIREMENTS TO CONTRACTORS AND EMPLOYEES REGARDING TERMINATION OR SUBSTANTIAL REDUCTION IN CONTRACTS UNDER MAJOR DEFENSE PROGRAMS.**

(a) **ELIMINATION OF UNNECESSARY REQUIREMENTS.**—Section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 2501 note) is amended—

- (1) by striking out subsection (a);
  - (2) by striking out subsection (f), except paragraph (4);
  - (3) by redesignating subsections (b), (c), (d), (e), and (g) as subsections (a), (b), (c), (d), and (f), respectively; and
  - (4) by redesignating such paragraph (4) as subsection (e).
- (b) **NOTICE TO CONTRACTORS.**—Subsection (a) of such section, as redesignated by subsection (a)(3), is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

“(1) shall identify each contract (if any) under major defense programs of the Department of Defense that will be terminated or substantially reduced as a result of the funding levels provided in that Act; and

“(2) shall ensure that notice of the termination of, or substantial reduction in, the funding of the contract is provided—

“(A) directly to the prime contractor under the contract; and

“(B) directly to the Secretary of Labor.”.

(c) **NOTICE TO SUBCONTRACTORS.**—Subsection (b) of such section, as redesignated by subsection (a)(3), is amended—

(1) by striking out “As soon as” and all that follows through “prime contractor shall—” in the matter preceding paragraph (1) and inserting in lieu thereof “Not later than 60 days after the date on which the prime contractor for a contract under a major defense program receives notice under subsection (a), the prime contractor shall—”;

(2) in paragraph (1)—

(A) by striking out “for that program under a contract” and inserting in lieu thereof “under that prime contract for subcontracts”; and

(B) by striking out “for the program”; and

(3) in paragraph (2)(A), by striking out “for the program under a contract” and inserting in lieu thereof “for subcontracts”.

(d) **NOTICE TO EMPLOYEES AND STATE DISLOCATED WORKER UNIT.**—Subsection (c) of such section, as redesignated by subsection (a)(3), is amended by striking out “under subsection (a)(1)” and all that follows through “a defense program,” in the matter preceding paragraph (1) and inserting in lieu thereof “under subsection (a),”.

(e) **CROSS REFERENCES AND CONFORMING AMENDMENTS.**—(1) Subsection (d) of such section, as redesignated by subsection (a)(3), is amended—

(A) by striking out “a major defense program provided under subsection (d)(1)” and inserting in lieu thereof “a defense contract provided under subsection (c)(1)”; and

(B) by striking out “the program” and inserting in lieu thereof “the contract”.

(2) Subsection (e) of such section, as redesignated by subsection (a)(4), is amended—

(A) by striking out “ELIGIBILITY” and inserting in lieu thereof “ELIGIBILITY”; and

(B) by striking out “under paragraph (3)” and inserting in lieu thereof “or cancellation of the termination of, or substantial reduction in, contract funding”.

(3) Subsection (f) of such section, as redesignated by subsection (a)(3), is amended in paragraph (2)—

(A) by inserting “a defense contract under” before “a major defense program”; and

(B) by striking out “contracts under the program” and inserting in lieu thereof “the funds obligated by the contract”.

**SEC. 825. REPEAL OF NOTICE REQUIREMENTS FOR SUBSTANTIALLY OR SERIOUSLY AFFECTED PARTIES IN DOWNSIZING EFFORTS.**

Sections 4101 and 4201 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1850, 1851; 10 U.S.C. 2391 note) are repealed.

**SEC. 826. STUDY OF EFFECTIVENESS OF DEFENSE MERGERS.**

(a) **STUDY.**—The Secretary of Defense shall conduct a study on mergers and acquisitions in the defense sector. The study shall address the following:

(1) The effectiveness of defense mergers and acquisitions in eliminating excess capacity within the defense industry.

(2) The degree of change in the dependence by defense contractors on defense-related Federal contracts within their overall business after mergers.

(3) The effect on defense industry employment resulting from defense mergers and acquisitions occurring during the three years preceding the date of the enactment of this Act.

(4) The effect on competition for defense contracts.

(b) **REPORT.**—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the results of the study conducted under subsection (a).

**SEC. 827. ANNUAL REPORT RELATING TO BUY AMERICAN ACT.**

41 USC 10b-3.

The Secretary of Defense shall submit to Congress, not later than 120 days after the end of each fiscal year, a report on the amount of purchases by the Department of Defense from foreign entities in that fiscal year. Such report shall separately indicate the dollar value of items for which the Buy American Act (41 U.S.C. 10a et seq.) was waived pursuant to any of the following:

(1) Any reciprocal defense procurement memorandum of understanding described in section 849(c)(2) of Public Law 103-160 (41 U.S.C. 10b-2 note).

(2) The Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.)

(3) Any international agreement to which the United States is a party.

**SEC. 828. FOREIGN ENVIRONMENTAL TECHNOLOGY.**

Subsection (b) of section 2536 of title 10, United States Code, is amended to read as follows:

“(b) **WAIVER AUTHORITY.**—(1) The Secretary concerned may waive the application of subsection (a) to a contract award if—

“(A) the Secretary concerned determines that the waiver is essential to the national security interests of the United States; or

“(B) in the case of a contract awarded for environmental restoration, remediation, or waste management at a Department of Defense or Department of Energy facility—

“(i) the Secretary concerned determines that the waiver will advance the environmental restoration, remediation, or waste management objectives of the department concerned and will not harm the national security interests of the United States; and

“(ii) the entity to which the contract is awarded is controlled by a foreign government with which the Secretary concerned is authorized to exchange Restricted Data under section 144 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2164(c)).

Notification.

“(2) The Secretary concerned shall notify Congress of any decision to grant a waiver under paragraph (1)(B) with respect to a contract. The contract may be awarded only after the end of the 45-day period beginning on the date the notification is received by the committees.”

**SEC. 829. ASSESSMENT OF NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE AND DEPENDENCY OF BASE ON SUPPLIES AVAILABLE ONLY FROM FOREIGN COUNTRIES.**

(a) **NATIONAL SECURITY OBJECTIVES FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.**—Section 2501(a) of title 10, United States Code, is amended by adding at the end the following:

“(5) Providing for the development, manufacture, and supply of items and technologies critical to the production and sustainment of advanced military weapon systems within the national technology and industrial base.”

(b) **NATIONAL DEFENSE PROGRAM FOR ANALYSIS OF THE TECHNOLOGY AND INDUSTRIAL BASE.**—Section 2503 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out “(1) The Secretary of Defense, in consultation with the National Defense Technology and Industrial Base Council,” in paragraph (1) and inserting in lieu thereof “The Secretary of Defense”; and

(B) by striking out paragraphs (2), (3), and (4); and

(2) in subsection (c)(3)(A)—

(A) by striking out “the National Defense Technology and Industrial Base Council in” and inserting in lieu thereof “the Secretary of Defense for”; and

(B) by striking out “and the periodic plans required by section 2506 of this title”.

(c) **PERIODIC DEFENSE CAPABILITY ASSESSMENTS, INCLUDING FOREIGN DEPENDENCY.**—(1) Section 2505 of title 10, United States Code, is amended to read as follows:

**“§ 2505. National technology and industrial base: periodic defense capability assessments**

“(a) **PERIODIC ASSESSMENT.**—Each fiscal year, the Secretary of Defense shall prepare selected assessments of the capability

of the national technology and industrial base to attain the national security objectives set forth in section 2501(a) of this title. The Secretary of Defense shall prepare such assessments in consultation with the Secretary of Commerce and the Secretary of Energy.

“(b) ASSESSMENT PROCESS.—The Secretary of Defense shall ensure that technology and industrial capability assessments—

“(1) describe sectors or capabilities, their underlying infrastructure and processes;

“(2) analyze present and projected financial performance of industries supporting the sectors or capabilities in the assessment; and

“(3) identify technological and industrial capabilities and processes for which there is potential for the national industrial and technology base not to be able to support the achievement of national security objectives.

“(c) ASSESSMENT OF EXTENT OF DEPENDENCY ON FOREIGN SOURCE ITEMS.—Each assessment under subsection (a) shall include a separate discussion and presentation regarding the extent to which the national technology and industrial base is dependent on items for which the source of supply, manufacture, or technology is outside of the United States and Canada and for which there is no immediately available source in the United States or Canada. The discussion and presentation regarding foreign dependency shall—

“(1) identify cases that pose an unacceptable risk of foreign dependency, as determined by the Secretary; and

“(2) present actions being taken or proposed to be taken to remedy the risk posed by the cases identified under paragraph (1), including efforts to develop a domestic source for the item in question.

“(d) INTEGRATED PROCESS.—The Secretary of Defense shall ensure that consideration of the technology and industrial base assessments is integrated into the overall budget, acquisition, and logistics support decision processes of the Department of Defense.”

(2) Section 2502(b) of title 10, United States Code, is amended—

(A) by striking out “the following responsibilities:” and all that follows through “effective cooperation” and inserting in lieu thereof “the responsibility to ensure effective cooperation”; and

(B) by striking out paragraph (2); and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and adjusting the margin of such paragraphs two ems to the left.

(d) REPEAL OF REQUIREMENT FOR PERIODIC DEFENSE CAPABILITY PLAN; DEVELOPMENT OF POLICY GUIDANCE.—Section 2506 of title 10, United States Code, is amended to read as follows:

**“§ 2506. Department of Defense technology and industrial base policy guidance**

“(a) DEPARTMENTAL GUIDANCE.—The Secretary of Defense shall prescribe departmental guidance for the attainment of each of the national security objectives set forth in section 2501(a) of this title. Such guidance shall provide for technological and industrial capability considerations to be integrated into the budget allocation, weapons acquisition, and logistics support decision processes.

“(b) REPORT TO CONGRESS.—The Secretary of Defense shall report on the implementation of the departmental guidance in the



annual report to Congress submitted pursuant to section 2504 of this title.”.

(e) **ANNUAL REPORT TO CONGRESS.**—Subchapter II of chapter 148 of title 10, United States Code, is amended by inserting after section 2503 the following new section:

**“§ 2504. Annual report to Congress**

“The Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives by March 1 of each year a report which shall include the following information:

“(1) A description of the departmental guidance prepared pursuant to section 2506 of this title.

“(2) A description of the methods and analyses being undertaken by the Department of Defense alone or in cooperation with other Federal agencies, to identify and address concerns regarding technological and industrial capabilities of the national technology and industrial base.

“(3) A description of the assessments prepared pursuant to section 2505 of this title and other analyses used in developing the budget submission of the Department of Defense for the next fiscal year.

“(4) Identification of each program designed to sustain specific essential technological and industrial capabilities and processes of the national technology and industrial base.”.

(f) **REPEAL OF REQUIREMENT TO COORDINATE THE ENCOURAGEMENT OF TECHNOLOGY TRANSFER WITH THE COUNCIL.**—Subsection 2514(c) of title 10, United States Code, is amended by striking out paragraph (5).

(g) **CLERICAL AMENDMENTS.**—(1) The table of sections at the beginning of subchapter II of chapter 148 of title 10, United States Code, is amended by inserting after the item relating to section 2503 the following new item:

“2504. Annual report to Congress.”.

(2) Such table of sections is further amended by striking out the item relating to section 2506 and inserting in lieu thereof the following new item:

“2506. Department of Defense technology and industrial base policy guidance.”.

10 USC 2501  
note.

(h) **REPEAL OF SUPERSEDED AND EXECUTED LAW.**—Sections 4218, 4219, and 4220 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 2505 note and 2506 note) are repealed.

10 USC 113 note.

**SEC. 830. EXPANSION OF REPORT ON IMPLEMENTATION OF AUTOMATED INFORMATION SYSTEMS TO INCLUDE ADDITIONAL MATTERS REGARDING INFORMATION RESOURCES MANAGEMENT.**

(a) **EXPANDED REPORT.**—The Secretary of Defense shall include in the report submitted in 1997 under section 381(f) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 113 note) a discussion of the following matters relating to information resources management:

(1) The progress made in implementing the Information Technology Management Reform Act of 1996 (division E of Public Law 104-106; 110 Stat. 679; 40 U.S.C. 1401 et seq.) and the amendments made by that Act.

(2) The progress made in implementing the strategy for the development or modernization of automated information systems for the Department of Defense, as required by section 366 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 275; 10 U.S.C. 113 note).

(3) Plans of the Department of Defense for establishing an integrated framework for management of information resources within the department.

(b) SPECIFIC ELEMENTS OF REPORT.—The presentation of matters under subsection (a) shall specifically include a discussion of the following:

(1) The status of the implementation of performance measures.

(2) The specific actions being taken to link the proposed performance measures to the planning, programming, and budgeting system of the Department of Defense and to the life-cycle management processes of the department.

(3) The results of pilot program testing of proposed performance measures.

(4) The additional training necessary for the implementation of performance-based information management.

(5) The department-wide actions that are necessary to comply with the requirements of the following provisions of law:

(A) The amendments made by the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285).

(B) The Information Technology Management Reform Act of 1996 (division E of Public Law 104-106; 110 Stat. 679; 40 U.S.C. 1401 et seq.) and the amendments made by that Act.

(C) Title V of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355; 108 Stat. 3349) and the amendments made by that title.

(D) The Chief Financial Officers Act of 1990 (Public Law 101-576; 104 Stat. 2838) and the amendments made by that Act.

#### SEC. 831. YEAR 2000 SOFTWARE CONVERSION.

10 USC 2302  
note.

(a) YEAR 2000 SOFTWARE CONVERSION.—The Secretary of Defense shall ensure that, as soon as practicable, all information technology acquired by the Department of Defense pursuant to contracts entered into after September 30, 1996, has the capabilities to process date and date-related data in 2000.

(b) ASSESSMENT.—The Secretary, acting through the chief information officers within the department (as designated pursuant to section 3506 of title 44, United States Code), shall assess all information technology within the Department of Defense to determine the extent to which such technology has the capabilities to operate effectively.

(c) PLAN.—Not later than January 1, 1997, the Secretary shall submit to Congress a detailed plan for eliminating any deficiencies identified pursuant to subsection (b). The plan shall include—

(1) a list of affected major systems;

(2) a description of how the deficiencies could affect the national security of the United States; and

(3) an estimate and prioritization of the resources that are necessary to eliminate the deficiencies.

**SEC. 832. PROCUREMENT FROM FIRMS IN INDUSTRIAL BASE FOR PRODUCTION OF SMALL ARMS.**

(a) **REQUIREMENT.**—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2473. Procurements from the small arms production industrial base**

“(a) **AUTHORITY TO LIMIT PROCUREMENTS TO CERTAIN SOURCES.**—To the extent that the Secretary of Defense determines necessary to preserve the small arms production industrial base, the Secretary may require that any procurement of property or services described in subsection (b) for the Department of Defense be made only from a firm in the small arms production industrial base.

“(b) **COVERED PROPERTY AND SERVICES.**—Subsection (a) applies to the following:

“(1) Repair parts for small arms.

“(2) Modifications of parts to improve small arms used by the armed forces.

“(c) **SMALL ARMS PRODUCTION INDUSTRIAL BASE.**—In this section, the term ‘small arms production industrial base’ means the firms comprising the small arms production industrial base, as described in the plan entitled ‘Preservation of Critical Elements of the Small Arms Industrial Base’, dated January 8, 1994, that was prepared by an independent assessment panel of the Army Science Board.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2473. Procurements from the small arms production industrial base.”.

**SEC. 833. CABLE TELEVISION FRANCHISE AGREEMENTS.**

Based on the advisory opinion from the United States Court of Federal Claims, In the Matter of the Department of Defense Cable Television Franchise Agreements, National Defense Authorization Act for Fiscal Year 1996, Section 823, No. 96-133X (July 11, 1996)—

(1) cable television franchise agreements for the construction, installation, or capital improvement of cable systems at military installations shall be considered contracts for purposes of the Federal Acquisition Regulation;

(2) cable television operators are entitled to recovery of their investments at such installations to the extent authorized in part 49 of the Federal Acquisition Regulation; and

(3) the appropriate official of the Department of Defense shall promptly issue a written notice of the termination for the convenience of the Government of the contracts described in such advisory opinion and commence settlement negotiations pursuant to the requirements of part 49 of the Federal Acquisition Regulation.

## TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

### Subtitle A—General Matters

- Sec. 901. Repeal of previously enacted reduction in number of statutory positions in Office of the Secretary of Defense.
- Sec. 902. Additional required reduction in defense acquisition workforce.
- Sec. 903. Reduction of personnel assigned to Office of the Secretary of Defense.
- Sec. 904. Report on military department headquarters staffs.
- Sec. 905. Matters to be considered in next assessment of current missions, responsibilities, and force structure of the unified combatant commands.
- Sec. 906. Transfer of authority to control transportation systems in time of war.
- Sec. 907. Codification of requirements relating to continued operation of the Uniformed Services University of the Health Sciences.
- Sec. 908. Joint Requirements Oversight Council.
- Sec. 909. Membership of the Ammunition Storage Board.
- Sec. 910. Removal of Secretary of the Army from membership on the Foreign Trade Zone Board.
- Sec. 911. Composition of aircraft accident investigation boards.
- Sec. 912. Mission of the White House Communications Agency.

### Subtitle B—Force Structure Review

- Sec. 921. Short title.
- Sec. 922. Findings.
- Sec. 923. Quadrennial Defense Review.
- Sec. 924. National Defense Panel.
- Sec. 925. Postponement of deadlines.
- Sec. 926. Definitions.

## Subtitle A—General Matters

### SEC. 901. REPEAL OF PREVIOUSLY ENACTED REDUCTION IN NUMBER OF STATUTORY POSITIONS IN OFFICE OF THE SECRETARY OF DEFENSE.

Section 903 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 401) is repealed.

### SEC. 902. ADDITIONAL REQUIRED REDUCTION IN DEFENSE ACQUISITION WORKFORCE.

(a) ADDITIONAL REDUCTIONS FOR FISCAL YEAR 1997.—Section 906(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 405) is amended in paragraph (1) by striking out “positions during fiscal year 1996” and all that follows and inserting in lieu thereof “so that—

“(A) the total number of defense acquisition personnel as of October 1, 1996, is less than the baseline number by at least 15,000; and

“(B) the total number of defense acquisition personnel as of October 1, 1997, is less than the baseline number by at least 30,000.”

(b) BASELINE NUMBER.—Such section is further amended by adding at the end the following new paragraph:

“(3) For purposes of this subsection, the term ‘baseline number’ means the total number of defense acquisition personnel as of October 1, 1995.”

### SEC. 903. REDUCTION OF PERSONNEL ASSIGNED TO OFFICE OF THE SECRETARY OF DEFENSE.

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—Effective October 1, 1999, the number of OSD personnel may not exceed 75 percent of the baseline number.

10 USC 131, 131 note, 133a, 134a, 137, 138, 142, 167 note, 176, 1056, 1216, 1587, 10201.

10 USC 131 note.

Effective dates.

(b) PHASED REDUCTION.—The number of OSD personnel—

(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.

(c) BASELINE NUMBER.—For purposes of this section, the term “baseline number” means the number of OSD personnel as of October 1, 1994.

(d) OSD PERSONNEL DEFINED.—For purposes of this section, the term “OSD personnel” means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(e) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(f) FLEXIBILITY.—If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.

(g) REPEAL OF PRIOR REQUIREMENT.—Section 901(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 401) is repealed.

#### SEC. 904. REPORT ON MILITARY DEPARTMENT HEADQUARTERS STAFFS.

(a) REVIEW BY SECRETARY OF DEFENSE.—The Secretary of Defense shall conduct a review of the size, mission, organization, and functions of the military department headquarters staffs. This review shall include the following:

(1) An assessment on the adequacy of the present organization structure to efficiently and effectively support the mission of the military departments.

(2) An assessment of options to reduce the number of personnel assigned to the military department headquarters staffs.

(3) An assessment of the extent of unnecessary duplication of functions between the Office of the Secretary of Defense and the military department headquarters staffs.

(4) An assessment of the possible benefits that could be derived from further functional consolidation between the civilian secretariat of the military departments and the staffs of the military service chiefs.

(5) An assessment of the possible benefits that could be derived from reducing the number of civilian officers in the military departments who are appointed by and with the advice and consent of the Senate.

(b) **REPORT.**—Not later than March 1, 1997, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) the findings and conclusions of the Secretary resulting from the review under subsection (a); and

(2) a plan for implementing resulting recommendations, including proposals for legislation (with supporting rationale) that would be required as a result of the review.

(c) **REDUCTION IN TOTAL NUMBER OF PERSONNEL ASSIGNED.**—In developing the plan under subsection (b)(2), the Secretary shall make every effort to provide for significant reductions in the overall number of military and civilian personnel assigned to or serving in the military department headquarters staffs.

(d) **MILITARY DEPARTMENT HEADQUARTERS STAFFS DEFINED.**—For the purposes of this section, the term “military department headquarters staffs” means the offices, organizations, and other elements of the Department of Defense comprising the following:

(1) The Office of the Secretary of the Army.

(2) The Army Staff.

(3) The Office of the Secretary of the Air Force.

(4) The Air Staff.

(5) The Office of the Secretary of the Navy.

(6) The Office of the Chief of Naval Operations.

(7) Headquarters, Marine Corps.

**SEC. 905. MATTERS TO BE CONSIDERED IN NEXT ASSESSMENT OF CURRENT MISSIONS, RESPONSIBILITIES, AND FORCE STRUCTURE OF THE UNIFIED COMBATANT COMMANDS.**

10 USC 161 note.

The Chairman of the Joint Chiefs of Staff shall consider, as part of the next periodic review by the Chairman of the missions, responsibilities, and force structure of the unified combatant commands pursuant to section 161(b) of title 10, United States Code, the following matters:

(1) Whether there exists an adequate distribution of threats, mission requirements, and responsibilities for geographic areas among the regional unified combatant commands.

(2) Whether reductions in the overall force structure of the Armed Forces permit the United States to better execute its warfighting plans through fewer or differently configured unified combatant commands, including—

(A) a total of five or fewer commands, all of which are regional;

(B) a total of three commands consisting of an eastward-oriented command, a westward-oriented command, and a central command;

(C) a purely functional command structure, involving (for example) a first theater command, a second theater command, a logistics command, a special contingencies command, and a strategic command; or

(D) any other command structure or configuration the Chairman finds appropriate.

(3) Whether any missions, staff, facilities, equipment, training programs, or other assets or activities of the unified combatant commands are redundant.

(4) Whether warfighting requirements are adequate to justify the current functional commands.

(5) Whether the exclusion of certain nations from the Areas of Responsibility of the unified combatant commands presents difficulties with respect to the achievement of United States national security objectives in those areas.

(6) Whether the current geographic boundary between the United States Central Command and the United States European Command through the Middle East could create command conflicts in the context of a major regional conflict in the Middle East region.

**SEC. 906. TRANSFER OF AUTHORITY TO CONTROL TRANSPORTATION SYSTEMS IN TIME OF WAR.**

(a) **AUTHORITY OF SECRETARY OF DEFENSE.**—Section 4742 of title 10, United States Code, is amended by striking out “Secretary of the Army” and inserting in lieu thereof “Secretary of Defense”.

(b) **TRANSFER OF SECTION.**—Such section, as amended by subsection (a), is transferred to the end of chapter 157 of such title and is redesignated as section 2644.

(c) **CONFORMING REPEAL.**—Section 9742 of such title is repealed.

(d) **CLERICAL AMENDMENTS.**—(1) The table of sections at the beginning of chapter 157 of such title is amended by adding at the end the following new item:

“2644. Control of transportation systems in time of war.”.

(2) The table of sections at the beginning of chapter 447 of such title is amended by striking out the item relating to section 4742.

(3) The table of sections at the beginning of chapter 947 of such title is amended by striking out the item relating to section 9742.

**SEC. 907. CODIFICATION OF REQUIREMENTS RELATING TO CONTINUED OPERATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.**

(a) **CODIFICATION OF EXISTING LAW.**—(1) Chapter 104 of title 10, United States Code, is amended by inserting after section 2112 the following new section:

**“§ 2112a. Continued operation of University**

“(a) **CLOSURE PROHIBITED.**—The University may not be closed.

Effective date.

“(b) **PERSONNEL STRENGTH.**—During the five-year period beginning on October 1, 1996, the personnel staffing levels for the University may not be reduced below the personnel staffing levels for the University as of October 1, 1993.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2112 the following new item:

“2112a. Continued operation of University.”.

(b) **REPEAL OF SUPERSEDED LAW.**—(1) Section 922 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2829; 10 U.S.C. 2112 note) is amended by striking out subsection (a).

(2) Section 1071 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 445; 10 U.S.C. 2112 note) is amended by striking out subsection (b).

**SEC. 908. JOINT REQUIREMENTS OVERSIGHT COUNCIL.**

Section 181 of title 10, United States Code, as added effective January 31, 1997, is amended by adding at the end the following new subsection: Effective date.

“(d) AVAILABILITY OF OVERSIGHT INFORMATION TO CONGRESSIONAL DEFENSE COMMITTEES.—(1) The Secretary of Defense shall ensure that, in the case of a recommendation by the Chairman to the Secretary that is approved by the Secretary, oversight information with respect to such recommendation that is produced as a result of the activities of the Joint Requirements Oversight Council is made available in a timely fashion to the congressional defense committees.

“(2) In this subsection:

“(A) The term ‘oversight information’ means information and materials comprising analysis and justification that are prepared to support a recommendation that is made to, and approved by, the Secretary of Defense.

“(B) The term ‘congressional defense committees’ means—

“(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(ii) the Committee on National Security and the Committee on Appropriations of the House of Representatives.”

**SEC. 909. MEMBERSHIP OF THE AMMUNITION STORAGE BOARD.**

Section 172(a) of title 10, United States Code, is amended by striking out “a joint board of officers selected by them” and inserting in lieu thereof “a joint board selected by them composed of officers, civilian officers and employees of the Department of Defense, or both”.

**SEC. 910. REMOVAL OF SECRETARY OF THE ARMY FROM MEMBERSHIP ON THE FOREIGN TRADE ZONE BOARD.**

The first section of the Act of June 18, 1934 (Public Law Numbered 397, Seventy-third Congress; 48 Stat. 998) (19 U.S.C. 81a), popularly known as the “Foreign Trade Zones Act”, is amended—

(1) in subsection (b), by striking out “the Secretary of the Treasury, and the Secretary of War” and inserting in lieu thereof “and the Secretary of the Treasury”; and

(2) in subsection (c), by striking out “Alaska, Hawaii,”.

**SEC. 911. COMPOSITION OF AIRCRAFT ACCIDENT INVESTIGATION BOARDS.**

(a) SELECTION OF BOARD MEMBERS.—(1) Chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2255. Aircraft accident investigation boards: composition requirements**

“(a) REQUIRED MEMBERSHIP OF BOARDS.—Whenever the Secretary of a military department convenes an aircraft accident investigation board to conduct an accident investigation (as described in section 2254(a)(2) of this title) with respect to a Class A accident involving an aircraft under the jurisdiction of the Secretary, the Secretary shall select the membership of the board so that—

“(1) a majority of the members (or in the case of a board consisting of a single member, the member) is selected from



units other than the mishap unit or a unit subordinate to the mishap unit; and

“(2) in the case of a board consisting of more than one member, at least one member of the board is a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

“(b) EXCEPTION.—(1) The Secretary of the military department concerned may waive the requirement of subsection (a)(1) in the case of an aircraft accident if the Secretary determines that—

“(A) it is not practicable to meet the requirement because of—

“(i) the remote location of the aircraft accident;

“(ii) an urgent need to promptly begin the investigation; or

“(iii) a lack of available persons outside of the mishap unit who have adequate knowledge and expertise regarding the type of aircraft involved in the accident; and

“(B) the objectivity and independence of the aircraft accident investigation board will not be compromised.

Notification.

“(2) The Secretary shall notify Congress of a waiver exercised under this subsection and the reasons therefor.

“(c) CONSULTATION REQUIREMENT.—In the case of an aircraft accident investigation board consisting of a single member, the member shall consult with a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

“(d) DESIGNATION OF CLASS A ACCIDENTS.—Not later than 60 days after an aircraft accident involving an aircraft under the jurisdiction of the Secretary of a military department, the Secretary shall determine whether the aircraft accident should be designated as a Class A accident for purposes of this section.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘Class A accident’ means an accident involving an aircraft that results in—

“(A) the loss of life or permanent disability;

“(B) damages to the aircraft, other property, or a combination of both, in an amount in excess of the amount specified by the Secretary of Defense for purposes of determining Class A accidents; or

“(C) the destruction of the aircraft.

“(2) The term ‘mishap unit’, with respect to an aircraft accident investigation, means the unit of the armed forces (at the squadron or battalion level or equivalent) to which was assigned the flight crew of the aircraft that sustained the accident that is the subject of the investigation.”

(2) The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

“2255. Aircraft accident investigation boards: composition requirements.”

Applicability.  
10 USC 2255  
note.

(b) EFFECTIVE DATE.—Section 2255 of title 10, United States Code, as added by subsection (a), shall apply with respect to any aircraft accident investigation board convened by the Secretary of a military department after the end of the six-month period beginning on the date of the enactment of this Act.

**SEC. 912. MISSION OF THE WHITE HOUSE COMMUNICATIONS AGENCY.** 10 USC 111 note.

(a) **TELECOMMUNICATIONS SUPPORT.**—The Secretary of Defense shall ensure that the activities of the White House Communications Agency in providing support services on a nonreimbursable basis for the President from funds appropriated for the Department of Defense for any fiscal year are limited to the provision of telecommunications support to the President and Vice President and to related elements (as defined in regulations of that agency and specified by the President with respect to particular individuals within those related elements).

(b) **OTHER SUPPORT.**—Support services other than telecommunications support services described in subsection (a) may be provided by the Department of Defense for the President through the White House Communications Agency on a reimbursable basis.

(c) **WHITE HOUSE COMMUNICATIONS AGENCY.**—For purposes of this section, the term “White House Communications Agency” means the element of the Department of Defense within the Defense Communications Agency that is known on the date of the enactment of this Act as the White House Communications Agency and includes any successor agency.

(d) **REPORT ON ISSUES RAISED BY DOD INSPECTOR GENERAL REVIEW OF WHITE HOUSE COMMUNICATIONS AGENCY.**—Not later than October 1, 1996, or 30 days after the date of the enactment of this Act, whichever is later, the Secretary of Defense shall submit to Congress a report setting forth the actions taken by the Secretary to address the issues raised by the report of the Department of Defense Inspector General reviewing the mission of the White House Communications Agency.

(e) **QUARTERLY REPORTS DURING FISCAL YEAR 1997.**—Not later than 30 days after the end of each quarter of fiscal year 1997, the Secretary of Defense shall submit to Congress a report describing the support services other than telecommunications support services described in subsection (a) that were provided during the preceding quarter by the Department of Defense for the President through the White House Communications Agency.

(f) **EFFECTIVE DATE.**—This section takes effect on October 1, 1997, and applies to funds appropriated for the Department of Defense for any fiscal year after fiscal year 1997.

Applicability.

## **Subtitle B—Force Structure Review**

Military Force  
Structure Review  
Act of 1996.  
10 USC 111 note.

**SEC. 921. SHORT TITLE.**

This subtitle may be cited as the “Military Force Structure Review Act of 1996”.

**SEC. 922. FINDINGS.**

Congress makes the following findings:

(1) Since the collapse of the Soviet Union in 1991, the United States has conducted two substantial assessments of the force structure of the Armed Forces necessary to meet United States defense requirements.

(2) The assessment by the Bush Administration (known as the “Base Force” assessment) and the assessment by the Clinton Administration (known as the “Bottom-Up Review”) were intended to reassess the force structure of the Armed

Forces in light of the changing realities of the post-Cold War world.

(3) Both assessments served an important purpose in focusing attention on the need to reevaluate the military posture of the United States, but the pace of global change necessitates a new, comprehensive assessment of the defense strategy of the United States and the force structure of the Armed Forces required to meet the threats to the United States in the twenty-first century.

(4) The Bottom-Up Review has been criticized on several points, including—

(A) the assumptions underlying the strategy of planning to fight and win two nearly simultaneous major regional conflicts;

(B) the force levels recommended to carry out that strategy; and

(C) the funding proposed for such recommended force levels.

(5) In response to the recommendations of the Commission on Roles and Missions of the Armed Forces, the Secretary of Defense endorsed the concept of conducting a quadrennial review of the defense program at the beginning of each newly elected Presidential administration, and the Department intends to complete the first such review in 1997.

(6) The review is to involve a comprehensive examination of defense strategy, the force structure of the active, guard, and reserve components, force modernization plans, infrastructure, and other elements of the defense program and policies in order to determine and express the defense strategy of the United States and to establish a revised defense program through the year 2005.

(7) In order to ensure that the force structure of the Armed Forces is adequate to meet the challenges to the national security interests of the United States in the twenty-first century, to assist the Secretary of Defense in conducting the review referred to in paragraph (5), and to assess the appropriate force structure of the Armed Forces through the year 2010 and beyond (if practicable), it is important to provide for the conduct of an independent, nonpartisan review of the force structure that is more comprehensive than prior assessments of the force structure, extends beyond the quadrennial defense review, and explores innovative and forward-thinking ways of meeting such challenges.

#### SEC. 923. QUADRENNIAL DEFENSE REVIEW.

(a) REQUIREMENT IN 1997.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall complete in 1997 a review of the defense program of the United States intended to satisfy the requirements for a Quadrennial Defense Review as identified in the recommendations of the Commission on Roles and Missions of the Armed Forces. The review shall include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through the year 2005.

(b) INVOLVEMENT OF NATIONAL DEFENSE PANEL.—(1) The Secretary shall apprise the National Defense Panel established under section 924, on an ongoing basis, of the work undertaken in the conduct of the review.

(2) Not later than March 14, 1997, the Chairman of the National Defense Panel shall submit to the Secretary the Panel's assessment of work undertaken in the conduct of the review as of that date and shall include in the assessment the recommendations of the Panel for improvements to the review, including recommendations for additional matters to be covered in the review.

(c) ASSESSMENTS OF REVIEW.—Upon completion of the review, the Chairman of the Joint Chiefs of Staff and the Chairman of the National Defense Panel, on behalf of the Panel, shall each prepare and submit to the Secretary such Chairman's assessment of the review in time for the inclusion of the assessment in its entirety in the report under subsection (d).

(d) REPORT.—Not later than May 15, 1997, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive report on the review. The report shall include the following:

(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement that strategy.

(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available by the year 2005, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge those roles and missions.

(8) The appropriate ratio of combat forces to support forces (commonly referred to as the "tooth-to-tail" ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

(9) The air-lift and sea-lift capabilities required to support the defense strategy.

(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

(13) Any other matter the Secretary considers appropriate.

#### SEC. 924. NATIONAL DEFENSE PANEL.

(a) ESTABLISHMENT.—Not later than December 1, 1996, the Secretary of Defense shall establish a nonpartisan, independent panel to be known as the National Defense Panel (in this section referred to as the “Panel”). The Panel shall have the duties set forth in this section.

(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the chairman and ranking member of the Committee on Armed Services of the Senate and the chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

(c) DUTIES.—The Panel shall—

(1) conduct and submit to the Secretary the assessment of the review under section 923 that is required by subsection (b)(2) of that section;

(2) conduct and submit to the Secretary the comprehensive assessment of the review that is required by subsection (c) of that section upon completion of the review; and

(3) conduct the assessment of alternative force structures for the Armed Forces required under subsection (d).

(d) ALTERNATIVE FORCE STRUCTURE ASSESSMENT.—(1) The Panel shall submit to the Secretary an independent assessment of a variety of possible force structures of the Armed Forces through the year 2010 and beyond, including the force structure identified in the report on the review under section 923(d). The purpose of the assessment is to develop proposals for an “above the line” force structure of the Armed Forces and to provide the Secretary and Congress recommendations regarding the optimal force structure to meet anticipated threats to the national security of the United States through the time covered by the assessment.

(2) In conducting the assessment, the Panel shall examine a variety of potential threats (including near-term threats and long-term threats) to the national security interests of the United States, including the following:

(A) Conventional threats across a spectrum of conflicts.

(B) The proliferation of weapons of mass destruction and the means of delivering such weapons, and the illicit transfer of technology relating to such weapons.

(C) The vulnerability of United States technology to non-traditional threats, including information warfare.

(D) Domestic and international terrorism.

(E) The emergence of a major potential adversary having military capabilities similar to those of the United States.

(F) Any other significant threat, or combination of threats, identified by the Panel.

(3) For purposes of the assessment, the Panel shall develop a variety of scenarios requiring a military response by the United States, including the following:

(A) Scenarios developed in light of the threats examined under paragraph (2).

(B) Scenarios developed in light of a continuum of conflicts ranging from a conflict of lesser magnitude than the conflict described in the Bottom-Up Review to a conflict of greater magnitude than the conflict so described.

(4) As part of the assessment, the Panel shall also—

(A) develop recommendations regarding a variety of force structures for the Armed Forces that permit the forward deployment of sufficient air, land, and sea-based forces to provide an effective deterrent to conflict and to permit a military response by the United States to the scenarios developed under paragraph (3);

(B) to the extent practicable, estimate the funding required by fiscal year, in constant fiscal year 1997 dollars, to organize, equip, and support the forces contemplated under the force structures assessed in the assessment; and

(C) comment on each of the matters also to be included by the Secretary in the report required by section 923(d).

(e) REPORT.—(1) Not later than December 1, 1997, the Panel shall submit to the Secretary a report setting forth the activities and the findings and recommendations of the Panel under subsection (d), including any recommendations for legislation that the Panel considers appropriate.

(2) Not later than December 15, 1997, the Secretary shall, after consultation with the Chairman of the Joint Chiefs of Staff, submit to the committees referred to in subsection (b) a copy of the report under paragraph (1), together with the Secretary's comments on the report.

(f) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

(g) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.

(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director, and a staff of not more than four additional individuals, if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

(i) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

(j) TERMINATION.—The Panel shall terminate 30 days after the date on which the Panel submits its report to the Secretary under subsection (e).

#### SEC. 925. POSTPONEMENT OF DEADLINES.

If the Presidential election in 1996 results in the election of a new President, each deadline set forth in this subtitle shall be postponed by three months.

#### SEC. 926. DEFINITIONS.

In this subtitle:

(1) The term “‘above the line’ force structure of the Armed Forces” means the force structure (including numbers, strengths, and composition and major items of equipment) for the Armed Forces at the following unit levels:

(A) In the case of the Army, the division.

(B) In the case of the Navy, the battle group.

(C) In the case of the Air Force, the wing.

(D) In the case of the Marine Corps, the expeditionary force.

(E) In the case of special operations forces of the Army, Navy, or Air Force, the major operating unit.

(F) In the case of the strategic forces, the ballistic missile submarine fleet, the heavy bomber force, and the intercontinental ballistic missile force.

(2) The term “Commission on Roles and Missions of the Armed Forces” means the Commission on Roles and Missions of the Armed Forces established by subtitle E of title IX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1738; 10 U.S.C. 111 note).

(3) The term “military operation other than war” means any operation other than war that requires the utilization of the military capabilities of the Armed Forces, including peace operations, humanitarian assistance operations and activities, counter-terrorism operations and activities, disaster relief activities, and counter-drug operations and activities.

(4) The term “peace operations” means military operations in support of diplomatic efforts to reach long-term political settlements of conflicts and includes peacekeeping operations and peace enforcement operations.

## **TITLE X—GENERAL PROVISIONS**

### **Subtitle A—Financial Matters**

- Sec. 1001. Transfer authority.
- Sec. 1002. Incorporation of classified annex.
- Sec. 1003. Authority for obligation of certain unauthorized fiscal year 1996 defense appropriations.
- Sec. 1004. Authorization of prior emergency supplemental appropriations for fiscal year 1996.
- Sec. 1005. Format for budget requests for Navy/Marine Corps and Air Force ammunition accounts.
- Sec. 1006. Format for annual budget requests for Defense Airborne Reconnaissance Program.
- Sec. 1007. Limitation on use of Department of Defense funds transferred to the Coast Guard.
- Sec. 1008. Fisher House Trust Fund for the Department of the Navy.
- Sec. 1009. Designation and liability of disbursing and certifying officials for the Coast Guard.
- Sec. 1010. Authority to suspend or terminate collection actions against deceased members of the Coast Guard.
- Sec. 1011. Department of Defense disbursing official check cashing and exchange transactions.

### **Subtitle B—Naval Vessels and Shipyards**

- Sec. 1021. Repeal of requirement for continuous applicability of contracts for phased maintenance of AE class ships.
- Sec. 1022. Funding for second and third maritime prepositioning ships out of National Defense Sealift Fund.
- Sec. 1023. Transfer of certain obsolete tugboats of the Navy.
- Sec. 1024. Transfer of U.S.S. Drum to city of Vallejo, California.
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### **Subtitle C—Counter-Drug Activities**

- Sec. 1031. Authority to provide additional support for counter-drug activities of Mexico.
- Sec. 1032. Availability of funds for certain drug interdiction and counter-drug activities.
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- Sec. 1034. Sale by Federal departments or agencies of chemicals used to manufacture controlled substances.

### **Subtitle D—Reports and Studies**

- Sec. 1041. Annual report on Operation Provide Comfort and Operation Enhanced Southern Watch.



- Sec. 1042. Annual report on emerging operational concepts.
- Sec. 1043. Report on Department of Defense military child care programs.
- Sec. 1044. Report on Department of Defense military youth programs.
- Sec. 1045. Quarterly reports regarding coproduction agreements.
- Sec. 1046. Report on witness interview procedures for Department of Defense criminal investigations.
- Sec. 1047. Report on military readiness requirements of the Armed Forces.
- Sec. 1048. Report on NATO enlargement.

#### **Subtitle E—Management of Armed Forces Retirement Home**

- Sec. 1051. Retirement Home Boards of Directors.
- Sec. 1052. Acceptance of uncompensated services.
- Sec. 1053. Disposal of tract of real property in the District of Columbia.

#### **Subtitle F—Other Matters**

- Sec. 1061. Policy on protection of national information infrastructure against strategic attack.
- Sec. 1062. Information systems security program.
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- Sec. 1064. Prohibition on collection and release of detailed satellite imagery relating to Israel.
- Sec. 1065. George C. Marshall European Center for Strategic Security Studies.
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- Sec. 1067. Assimilative crimes authority for traffic offenses on military installations.
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- Sec. 1073. Correction to statutory references to certain Department of Defense organizations.
- Sec. 1074. Technical and clerical amendments.
- Sec. 1075. Modification to third-party liability to United States for tortious infliction of injury or disease on members of the uniformed services.
- Sec. 1076. Chemical Stockpile Emergency Preparedness Program.
- Sec. 1077. Exemption from requirements applicable to savings associations for certain savings institutions serving military personnel.
- Sec. 1078. Improvements to National Security Education Program.
- Sec. 1079. Aviation and vessel war risk insurance.
- Sec. 1080. Designation of memorial as National D-Day Memorial.
- Sec. 1081. Sense of Congress regarding semiconductor trade agreement between United States and Japan.
- Sec. 1082. Agreements for exchange of defense personnel between the United States and foreign countries.
- Sec. 1083. Sense of Senate regarding Bosnia and Herzegovina.
- Sec. 1084. Defense burdensharing.

### **Subtitle A—Financial Matters**

#### **SEC. 1001. TRANSFER AUTHORITY.**

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1997 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed \$2,000,000,000.

(b) **LIMITATIONS.**—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) **EFFECT ON AUTHORIZATION AMOUNTS.**—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) **NOTICE TO CONGRESS.**—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

**SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.**

10 USC 114 note.

(a) **STATUS OF CLASSIFIED ANNEX.**—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill H.R. 3230 of the One Hundred Fourth Congress and transmitted to the President is hereby incorporated into this Act.

(b) **CONSTRUCTION WITH OTHER PROVISIONS OF ACT.**—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) **LIMITATION ON USE OF FUNDS.**—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) **DISTRIBUTION OF CLASSIFIED ANNEX.**—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

President.

**SEC. 1003. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1996 DEFENSE APPROPRIATIONS.**

(a) **AUTHORITY.**—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1996 defense appropriations.

(b) **COVERED AMOUNTS.**—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1996 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1996 defense authorizations.

(c) **DEFINITIONS.**—For the purposes of this section:

(1) **FISCAL YEAR 1996 DEFENSE APPROPRIATIONS.**—The term “fiscal year 1996 defense appropriations” means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1996 in the Department of Defense Appropriations Act, 1996 (Public Law 104-61).

(2) **FISCAL YEAR 1996 DEFENSE AUTHORIZATIONS.**—The term “fiscal year 1996 defense authorizations” means amounts authorized to be appropriated for the Department of Defense

for fiscal year 1996 in the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106).

**SEC. 1004. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1996.**

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1996 in the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134).

**SEC. 1005. FORMAT FOR BUDGET REQUESTS FOR NAVY/MARINE CORPS AND AIR FORCE AMMUNITION ACCOUNTS.**

Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of ammunition for the Navy and Marine Corps, and for procurement of ammunition for the Air Force, shall be set forth separately from other amounts requested for procurement.”.

**SEC. 1006. FORMAT FOR ANNUAL BUDGET REQUESTS FOR DEFENSE AIRBORNE RECONNAISSANCE PROGRAM.**

(a) **SEPARATE DISPLAY REQUIRED.**—The Secretary of Defense shall ensure that in the budget justification documents for any fiscal year there are set forth separately the amount requested for research, development, test, and evaluation, and the amount requested for procurement, for each program area within the Defense Airborne Reconnaissance Program.

(b) **PROGRAM AREAS WITHIN DEFENSE AIRBORNE RECONNAISSANCE PROGRAM.**—For purposes of subsection (a), the programs of the Defense Airborne Reconnaissance Program shall be categorized as being within one of the following areas:

- (1) Tactical unmanned aerial vehicles.
- (2) Endurance unmanned aerial vehicles.
- (3) Airborne reconnaissance systems.
- (4) Manned reconnaissance systems.
- (5) Distributed common ground systems.

(6) Any additional program area established by the Secretary of Defense.

(c) **BUDGET JUSTIFICATION DOCUMENTS.**—For purposes of subsection (a), the term “budget justification documents” means the supporting budget documentation submitted to the congressional defense committees in support of the budget of the Department of Defense for a fiscal year as included in the budget of the President submitted under section 1105 of title 31, United States Code, for that fiscal year.

**SEC. 1007. LIMITATION ON USE OF DEPARTMENT OF DEFENSE FUNDS TRANSFERRED TO THE COAST GUARD.**

(a) **LIMITATION TO NATIONAL SECURITY FUNCTIONS.**—Funds appropriated to the Department of Defense for fiscal year 1997 that are transferred pursuant to law to the Coast Guard may be used only for the performance of national security functions of the Coast Guard in support of the Department of Defense.

(b) **CERTIFICATION REQUIRED.**—Funds appropriated to the Department of Defense for fiscal year 1997 may not be transferred to the Coast Guard until the Secretary of Defense and the Secretary of Transportation jointly certify to Congress that the funds so transferred will be used only in accordance with the limitation in subsection (a).

(c) **PERIODIC GAO AUDITS.**—The Comptroller General of the United States shall—

(1) audit, from time to time, the use of funds transferred to the Coast Guard from appropriations for the Department of Defense for fiscal year 1997 in order to verify that those funds are being used in accordance with the limitation in subsection (a); and

(2) notify the congressional defense committees of any use of those funds that, in the judgment of the Comptroller General, is a violation of that limitation. Notification.

**SEC. 1008. FISHER HOUSE TRUST FUND FOR THE DEPARTMENT OF THE NAVY.**

(a) **AUTHORITY.**—Section 2221 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (a) the following:

“(3) The Fisher House Trust Fund, Department of the Navy.”;

(2) in subsection (c)—

(A) by redesignating paragraph (3) as paragraph

(4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

“(3) Amounts in the Fisher House Trust Fund, Department of the Navy, that are attributable to earnings or gains realized from investments shall be available for the operation and maintenance of Fisher houses that are located in proximity to medical treatment facilities of the Navy.”; and

(3) in subsection (d)(1), by striking out “or the Air Force” and inserting in lieu thereof “, the Air Force, or the Navy”.

(b) **CORPUS OF TRUST FUNDS.**—The Secretary of the Navy shall transfer to the Fisher House Trust Fund, Department of the Navy, established by section 2221(a)(3) of title 10, United States Code (as added by subsection (a)(1)), all amounts in the accounts for Navy installations and other facilities that, as of the date of the enactment of this Act, are available for operation and maintenance of Fisher houses, as defined in section 2221(d) of such title.

10 USC 2221  
note.

(c) **CONFORMING AMENDMENTS.**—Section 1321 of title 31, United States Code, is amended—

(1) by adding at the end of subsection (a) the following:

“(94) Fisher House Trust Fund, Department of the Navy.”; and

(2) by adding at the end of subsection (b)(2) the following:

“(D) Fisher House Trust Fund, Department of the Navy.”.

**SEC. 1009. DESIGNATION AND LIABILITY OF DISBURSING AND CERTIFYING OFFICIALS FOR THE COAST GUARD.**

(a) **DISBURSING OFFICIALS.**—(1) Section 3321(c) of title 31, United States Code, is amended by adding at the end the following:

“(3) The Department of Transportation (with respect to public money available for expenditure by the Coast Guard when it is not operating as a service in the Navy).”.

(2)(A) Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

**“§ 673. Designation, powers, and accountability of deputy disbursing officials**

“(a)(1) Subject to paragraph (3), a disbursing official of the Coast Guard may designate a deputy disbursing official—

“(A) to make payments as the agent of the disbursing official;

“(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

“(C) to carry out other duties required under law.

“(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

“(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Transportation (when the Coast Guard is not operating as a service in the Navy).

“(b)(1) If a disbursing official of the Coast Guard dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the second month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

“(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

“(c)(1) Except as provided in paragraph (2), this section does not apply to the Coast Guard when section 2773 of title 10 applies to the Coast Guard by reason of the operation of the Coast Guard as a service in the Navy.

“(2) A designation of a deputy disbursing official under subsection (a) that is made while the Coast Guard is not operating as a service in the Navy continues in effect for purposes of section 2773 of title 10 while the Coast Guard operates as a service in the Navy unless and until the designation is terminated by the disbursing official who made the designation or an official authorized to approve such a designation under subsection (a)(3) of such section.”

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“673. Designation, powers, and accountability of deputy disbursing officials.”

(b) DESIGNATION OF MEMBERS OF THE ARMED FORCES TO HAVE AUTHORITY TO CERTIFY VOUCHERS.—Section 3325(b) of title 31, United States Code, is amended by striking out “members of the armed forces under the jurisdiction of the Secretary of Defense may certify vouchers when authorized, in writing, by the Secretary to do so” and inserting in lieu thereof “members of the armed forces may certify vouchers when authorized, in writing, by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation”.

(c) CONFORMING AMENDMENTS.—(1) Section 1007(a) of title 37, United States Code, is amended by inserting after “Secretary of Defense” the following: “(or the Secretary of Transportation, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy)”.

(2) Section 3527(b)(1) of title 31, United States Code, is amended—

(A) in subparagraph (A)(i), by inserting after “Department of Defense” the following: “(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)”; and

(B) in subparagraph (B), by inserting after “or the Secretary of the appropriate military department” the following: “(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)”.

**SEC. 1010. AUTHORITY TO SUSPEND OR TERMINATE COLLECTION ACTIONS AGAINST DECEASED MEMBERS OF THE COAST GUARD.**

Section 3711(g) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out “or Marine Corps” and inserting in lieu thereof “Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) The Secretary of Transportation may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Coast Guard if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.”.

**SEC. 1011. DEPARTMENT OF DEFENSE DISBURSING OFFICIAL CHECK CASHING AND EXCHANGE TRANSACTIONS.**

Section 3342(b) of title 31, United States Code, is amended—

(1) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon;

(2) by striking out “and” at the end of paragraph (5);

(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof “; or”; and

(4) by adding at the end the following new paragraph:

“(7) a Federal credit union (as defined in section 101(1) of the Federal Credit Union Act (12 U.S.C. 1752(1)) that at the request of the Secretary of Defense is operating on a United States military installation in a foreign country, but only if that country does not permit contractor-operated military banking facilities to operate on such installations.”.

## Subtitle B—Naval Vessels and Shipyards

### SEC. 1021. REPEAL OF REQUIREMENT FOR CONTINUOUS APPLICABILITY OF CONTRACTS FOR PHASED MAINTENANCE OF AE CLASS SHIPS.

Section 1016 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 425) is repealed.

### SEC. 1022. FUNDING FOR SECOND AND THIRD MARITIME PREPOSITIONING SHIPS OUT OF NATIONAL DEFENSE SEALIFT FUND.

(a) NATIONAL DEFENSE SEALIFT FUND.—To the extent provided in appropriations Acts, funds in the National Defense Sealift Fund may be obligated and expended for the purchase and conversion, or construction, of a total of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 302(2), \$240,000,000 is authorized to be appropriated for the purpose stated in subsection (a).

Wisconsin.

### SEC. 1023. TRANSFER OF CERTAIN OBSOLETE TUGBOATS OF THE NAVY.

(a) REQUIREMENT TO TRANSFER VESSELS.—The Secretary of the Navy shall transfer the six obsolete tugboats of the Navy specified in subsection (b) to the Northeast Wisconsin Railroad Transportation Commission, an instrumentality of the State of Wisconsin, if the Secretary determines that the tugboats are not needed for transfer, donation, or other disposal under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

(b) VESSELS COVERED.—The requirement in subsection (a) applies to the six decommissioned Cherokee class tugboats, listed as of the date of the enactment of this Act as being surplus to the Navy, that are designated as ATF-105, ATF-110, ATF-149, ATF-158, ATF-159, and ATF-160.

(c) CONDITION RELATING TO ENVIRONMENTAL COMPLIANCE.—The Secretary shall require as a condition of the transfer of a vessel under subsection (a) that use of the vessel by the Commission not commence until the terms of any necessary environmental compliance letter or agreement with respect to that vessel have been complied with.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions (including a requirement that the transfer be at no cost to the Government) in connection with the transfers required by subsection (a) as the Secretary considers appropriate.

### SEC. 1024. TRANSFER OF U.S.S. DRUM TO CITY OF VALLEJO, CALIFORNIA.

(a) TRANSFER.—The Secretary of the Navy shall transfer the U.S.S. Drum (SSN-677) to the city of Vallejo, California, in accordance with this section and upon satisfactory completion of a ship donation application. Before making such transfer, the Secretary of the Navy shall remove from the vessel the reactor compartment and other classified and sensitive military equipment.

(b) **FUNDING.**—As provided in section 7306(c) of title 10, United States Code, the transfer of the vessel authorized by this section shall be made at no cost to the United States (beyond the cost which the United States would otherwise incur for dismantling and recycling of the vessel).

(c) **APPLICABLE LAW.**—The transfer under this section shall be subject to subsection (b) of section 7306 of title 10, United States Code, but the provisions of subsection (d) of such section shall not be applicable to such transfer.

**SEC. 1025. SENSE OF CONGRESS CONCERNING USS LCS 102 (LSSL 102).**

It is the sense of Congress that the Secretary of Defense should use existing authorities in law to seek the expeditious return, upon completion of service, of the former USS LCS 102 (LSSL 102) from the Government of Thailand in order for the ship to be transferred to the United States Shipbuilding Museum in Quincy, Massachusetts.

## **Subtitle C—Counter-Drug Activities**

**SEC. 1031. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.**

(a) **AUTHORITY TO PROVIDE ADDITIONAL SUPPORT.**—Subject to subsection (e), during fiscal year 1997, the Secretary of Defense may provide the Government of Mexico with the support described in subsection (b) for the counter-drug activities of the Government of Mexico. The support provided under the authority of this subsection shall be in addition to support provided to the Government of Mexico under any other provision of law.

(b) **TYPES OF SUPPORT.**—The authority under subsection (a) is limited to the provision of the following types of support:

(1) The transfer of nonlethal protective and utility personnel equipment.

(2) The transfer of the following nonlethal specialized equipment:

(A) Navigation equipment.

(B) Secure and nonsecure communications equipment.

(C) Photo equipment.

(D) Radar equipment.

(E) Night vision systems.

(F) Repair equipment and parts for equipment referred to in subparagraphs (A), (B), (C), (D), and (E).

(3) The transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software for aircraft or patrol boats, and related repair equipment.

(4) The maintenance and repair of equipment of the Government of Mexico that is used for counter-drug activities.

(c) **APPLICABILITY OF OTHER SUPPORT AUTHORITIES.**—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

(d) **FUNDING.**—Of the amount authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activi-



ties, not more than \$8,000,000 shall be available for the provision of support under this section.

Certification.

(e) LIMITATIONS.—(1) The Secretary may not obligate or expend funds to provide support under this section until 15 days after the date on which the Secretary submits to the committees referred to in paragraph (3) the certification described in paragraph (2).

(2) The certification referred to in paragraph (1) is a written certification of the following:

(A) That the provision of support under this section will not adversely affect the military preparedness of the United States Armed Forces.

(B) That the equipment and materiel provided as support will be used only by officials and employees of the Government of Mexico who have undergone a background check by that government.

(C) That the Government of Mexico has certified to the Secretary that—

(i) the equipment and material provided as support will be used only by the officials and employees referred to in subparagraph (B);

(ii) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(iii) the equipment and materiel will be used only for the purposes intended by the United States Government.

(D) That the Government of Mexico has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(E) That the departments, agencies, and instrumentalities of the Government of Mexico will grant United States Government personnel access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(F) That the Government of Mexico will provide security with respect to the equipment and materiel provided as support that is substantially the same degree of security that the United States Government would provide with respect to such equipment and materiel.

(G) That the Government of Mexico will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(3) The committees referred to in this paragraph are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

**SEC. 1032. AVAILABILITY OF FUNDS FOR CERTAIN DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.**

(a) **P-3B AIRCRAFT.**—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than \$98,000,000 may be used for the purpose of procuring or modifying two P-3B aircraft for use by departments and agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities. However, funds may not be obligated for such purpose until the Secretary of Defense submits to the congressional defense committees a certification that the procurement or modification of such aircraft and the use of such aircraft by other departments or agencies of the United States will significantly reduce the level of support that would otherwise be required of E-3 AWACS aircraft as part of the drug interdiction and counter-drug mission of the Department of Defense.

Certification.

(b) **NONINTRUSIVE INSPECTION DEVICES.**—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than \$10,000,000 may be used to procure three nonintrusive inspection devices for use by departments and agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities.

(c) **AUTHORITY TO TRANSFER EQUIPMENT.**—The Secretary of Defense may transfer to the head of any department or agency of the United States outside the Department of Defense any equipment procured or modified under this section with funds referred to in this section.

**SEC. 1033. TRANSFER OF EXCESS PERSONAL PROPERTY TO SUPPORT LAW ENFORCEMENT ACTIVITIES.**

(a) **TRANSFER AUTHORITY.**—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2576 the following new section:

**“§ 2576a. Excess personal property: sale or donation for law enforcement activities**

“(a) **TRANSFER AUTHORIZED.**—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

“(A) suitable for use by the agencies in law enforcement activities, including counter-drug and counter-terrorism activities; and

“(B) excess to the needs of the Department of Defense.

“(2) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

“(b) **CONDITIONS FOR TRANSFER.**—The Secretary of Defense may transfer personal property under this section only if—

“(1) the property is drawn from existing stocks of the Department of Defense;

“(2) the recipient accepts the property on an as-is, where-is basis;

“(3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

“(4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the recipient.

“(c) CONSIDERATION.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the recipient agency.

“(d) PREFERENCE FOR CERTAIN TRANSFERS.—In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to those applications indicating that the transferred property will be used in the counter-drug or counter-terrorism activities of the recipient agency.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2576 the following new item:

“2576a. Excess personal property: sale or donation for law enforcement activities.”

(b) CONFORMING AMENDMENTS.—(1) Section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note) is repealed.

(2) Section 1005 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1630) is amended by striking out “section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372” and inserting in lieu thereof “sections 372 and 2576a”.

**SEC. 1034. SALE BY FEDERAL DEPARTMENTS OR AGENCIES OF CHEMICALS USED TO MANUFACTURE CONTROLLED SUBSTANCES.**

(a) DEA CERTIFICATION.—The Controlled Substances Act is amended by inserting after section 519 (21 U.S.C. 889) the following new section:

21 USC 890.

**“SEC. 520. REVIEW OF FEDERAL SALES OF CHEMICALS USABLE TO MANUFACTURE CONTROLLED SUBSTANCES.**

“A Federal department or agency may not sell from the stocks of the department or agency any chemical which, as determined by the Administrator of the Drug Enforcement Administration, could be used in the manufacture of a controlled substance unless the Administrator certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance.”

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 519 the following new item:

“Sec. 520. Review of Federal sales of chemicals usable to manufacture controlled substances.”

## Subtitle D—Reports and Studies

10 USC 113 note.

**SEC. 1041. ANNUAL REPORT ON OPERATION PROVIDE COMFORT AND OPERATION ENHANCED SOUTHERN WATCH.**

(a) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report on Operation Provide Comfort and Operation Enhanced Southern Watch.

(b) **MATTERS RELATING TO OPERATION PROVIDE COMFORT.**—Each report under subsection (a) shall include, with respect to Operation Provide Comfort, the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for that operation during the fiscal year in which the report is submitted and projected for the following fiscal year, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during each of those fiscal years.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to that operation during each of those fiscal years.

(3) A discussion of options being pursued to reduce the involvement of the Department of Defense in those aspects of that operation that are not directly related to the military mission of the Department of Defense.

(4) A discussion of the exit strategy for United States involvement in, and support for, that operation.

(5) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost to the Department of Defense of accomplishing that mission while maintaining mission success.

(6) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(7) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Kurdish population in northern Iraq.

(c) **MATTERS RELATING TO OPERATION ENHANCED SOUTHERN WATCH.**—Each report under subsection (a) shall include, with respect to Operation Enhanced Southern Watch, the following:

(1) The expected duration and annual costs of the various elements of that operation.

(2) The political and military objectives associated with that operation.

(3) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(4) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost of accomplishing that mission while maintaining mission success.

(5) A comprehensive discussion of the political and military objectives and initiatives that the Department of Defense has pursued, and intends to pursue, in order to reduce United States involvement in that operation.

(6) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Shiite population by air attack in southern Iraq or to jeopardize the security of Kuwait.

(d) **TERMINATION OF REPORT REQUIREMENT.**—The requirement under subsection (a) shall cease to apply with respect to an operation named in that subsection upon the termination of United States involvement in that operation.

(e) **DEFINITIONS.**—For purposes of this section:

(1) OPERATION ENHANCED SOUTHERN WATCH.—The term “Operation Enhanced Southern Watch” means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

(2) OPERATION PROVIDE COMFORT.—The term “Operation Provide Comfort” means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

10 USC 113 note. **SEC. 1042. ANNUAL REPORT ON EMERGING OPERATIONAL CONCEPTS.**

(a) REPORT REQUIRED.—Not later than March 1 of each year through 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on emerging operational concepts. Each such report shall be prepared by the Secretary in consultation with the Chairman of the Joint Chiefs of Staff.

(b) MATTERS TO BE INCLUDED.—Each such report shall contain a description, for the year preceding the year in which the report is submitted, of the following:

(1) The process undertaken in the Department of Defense, and in each of the Army, Navy, Air Force, and Marine Corps, to define and develop doctrine, operational concepts, organizational concepts, and acquisition strategies to address—

(A) the potential of emerging technologies for significantly improving the operational effectiveness of the Armed Forces;

(B) changes in the international order that may necessitate changes in the operational capabilities of the Armed Forces;

(C) emerging capabilities of potential adversary states; and

(D) changes in defense budget projections.

(2) The manner in which the processes described in paragraph (1) are harmonized to ensure that there is a sufficient consideration of the development of joint doctrine, operational concepts, and acquisition strategies.

(3) The manner in which the processes described in paragraph (1) are coordinated through the Joint Requirements Oversight Council and reflected in the planning, programming, and budgeting process of the Department of Defense.

**SEC. 1043. REPORT ON DEPARTMENT OF DEFENSE MILITARY CHILD CARE PROGRAMS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense should be congratulated on the successful implementation of the Military Child Care Act of 1989 (originally enacted as title XV of Public Law 101-189 and subsequently codified as subchapter II of chapter 88 of title 10, United States Code).

(2) The actions taken by the Department as a result of that Act have dramatically improved the availability, affordability, quality, and consistency of the child-care services provided to members of the Armed Forces.

(3) Child care is important to the readiness of members of the Armed Forces since single parents and couples in military service must have access to affordable child care of good quality.

if they are to perform their jobs and respond effectively to long work hours or deployments.

(4) Child care is important to the retention of members of the Armed Forces in military service because the dissatisfaction of the families of such members with military life is a primary reason for the departure of such members from military service.

(b) SENSE OF CONGRESS RELATED TO MILITARY-CIVILIAN CHILD-CARE PARTNERSHIP PROGRAMS.—It is the sense of Congress that—

(1) the civilian and military child-care communities, Federal, State, and local agencies, and businesses and communities involved in the provision of child-care services could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to their experiences with the provision of such services and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships would be beneficial to all families by helping providers of child-care services exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that such partnerships could be developed, including—

(A) cooperation between the directors and curriculum specialists of military child development centers and civilian child development centers in assisting such centers in the accreditation process;

(B) use of family support staff to conduct parent and family workshops for new parents and parents with young children in family housing on military installations and in communities in the vicinity of such installations;

(C) internships in Department of Defense child-care programs for civilian child-care providers to broaden the base of good-quality child-care services in communities in the vicinity of military installations; and

(D) attendance by civilian child-care providers at Department child-care training classes on a space-available basis.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any partnerships and other initiatives undertaken by the Department of Defense as described in subsection (b), including recommendations for additional ways to improve the child-care programs of the Department of Defense and to improve such programs so as to benefit civilian child-care providers in communities in the vicinity of military installations.

#### **SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE MILITARY YOUTH PROGRAMS.**

(a) FINDINGS.—Congress makes the following findings:

(1) Programs of the Department of Defense for youth who are dependents of members of the Armed Forces have not received the same level of attention and resources as have child-care programs of the Department since the passage of the Military Child Care Act of 1989 (originally enacted as title XV of Public Law 101-189 and subsequently codified as subchapter II of chapter 88 of title 10, United States Code).

(2) Older children deserve as much attention to their developmental needs as do younger children.

(3) The Department has started to direct more attention to programs for youths who are dependents of members of the Armed Forces by providing funds for the implementation of 20 model community programs to address the needs of such youths.

(4) The lessons learned from such programs could apply to civilian youth programs as well.

(b) SENSE OF CONGRESS RELATED TO MILITARY-CIVILIAN YOUTH PARTNERSHIP PROGRAMS.—It is the sense of Congress that—

(1) the Department of Defense, Federal, State, and local agencies, and businesses and communities involved in conducting youth programs could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to such programs and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships could be beneficial to all families by helping the providers of services for youths exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that such partnerships could be developed, including—

(A) cooperation between the Department and Federal and State educational agencies in exploring the use of public school facilities for child-care programs and youth programs that are mutually beneficial to the Department and civilian communities and complement programs of the Department carried out at its facilities; and

(B) improving youth programs that enable adolescents to relate to new peer groups when families of members of the Armed Forces are relocated.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any partnerships and other initiatives undertaken by the Department as described in subsection (b), including recommendations for additional ways to improve the youth programs of the Department of Defense and to improve such programs so as to benefit communities in the vicinity of military installations.

#### SEC. 1045. QUARTERLY REPORTS REGARDING COPRODUCTION AGREEMENTS.

(a) QUARTERLY REPORTS ON COPRODUCTION AGREEMENTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking out “and” at the end of paragraph (10);

(2) by striking out the period at the end of paragraph

(11) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (11) the following new paragraph:

“(12) a report on all concluded government-to-government agreements regarding foreign coproduction of defense articles of United States origin and all other concluded agreements involving coproduction or licensed production outside of the United States of defense articles of United States origin (including coproduction memoranda of understanding or agreement)

that have not been previously reported under this subsection, which shall include—

“(A) the identity of the foreign countries, international organizations, or foreign firms involved;

“(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

“(C) a description of any restrictions on third-party transfers of the foreign-manufactured articles; and

“(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the foreign country, a description of alternative measures and controls incorporated in the coproduction or licensing program to ensure compliance with restrictions in the agreement on production quantities and third-party transfers.”.

(b) **EFFECTIVE DATE.**—Paragraph (12) of section 36(a) of the Arms Export Control Act, as added by subsection (a)(3), does not apply with respect to an agreement described in such paragraph entered into before the date of the enactment of this Act. 22 USC 2776 note.

**SEC. 1046. REPORT ON WITNESS INTERVIEW PROCEDURES FOR DEPARTMENT OF DEFENSE CRIMINAL INVESTIGATIONS.**

(a) **SURVEY OF MILITARY DEPARTMENT POLICIES AND PRACTICES.**—The Comptroller General of the United States shall conduct a survey of the policies and practices of the Naval Criminal Investigative Service with respect to the manner in which interviews of suspects and witnesses are conducted in connection with criminal investigations of allegations of contractor fraud. The purpose of the survey shall be to ascertain whether or not investigators and agents of the Naval Criminal Investigative Service conduct investigations of contractor fraud in accordance with generally accepted Federal law enforcement standards and applicable law.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report concerning the survey under subsection (a). The report shall specifically address the following:

(1) The extent to which investigators of the Naval Criminal Investigative Service investigators and agents of the Naval Criminal Investigative Service conduct investigations of contractor fraud in accordance with generally accepted Federal law enforcement standards and applicable law.

(2) The extent to which the interview policies established by Department of Defense directives or Navy regulations are adequate to instruct and guide investigators in the proper conduct of subject and witness interviews.

(3) The desirability and feasibility of providing for video and audio recording of interviews and, if recording is desirable, the circumstances under which recordings should be made.

(4) The desirability and feasibility of making such recordings or written transcriptions of interviews, or both, available on demand to the subject or witness interviewed.

(5) The extent to which existing Department of Defense directives and Navy regulations address the carrying and display of weapons by agents, together with an assessment of



whether any change in any such directive or regulation is necessary.

(6) The extent to which existing Department of Defense directives and Navy regulations provide guidance to agents to ensure that the agents' conduct and demeanor is in accordance with generally accepted Federal law enforcement standards and applicable law.

(7) Any recommendation for legislation to ensure that investigators and agents of the Naval Criminal Investigative Service use legal and proper tactics during interviews in connection with criminal investigations of allegations of contractor fraud.

**SEC. 1047. REPORT ON MILITARY READINESS REQUIREMENTS OF THE ARMED FORCES.**

(a) **REPORT REQUIRED.**—Not later than January 31, 1997, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the military readiness requirements of the active and reserve components of the Armed Forces, including specific combat units, combat support units, and combat service support units. Based on the assessment scenario described in subsection (c), the report shall assess such readiness requirements under a tiered readiness and response system that categorizes a given unit of the Armed Forces according to the likelihood that the unit will be required to respond to a military conflict and the time in which the unit will be required to respond.

(b) **PREPARATION OF REPORT.**—The Chairman of the Joint Chiefs of Staff, together with the other members of the Joint Chiefs of Staff specified in section 151(a) of title 10, United States Code, shall prepare the report required by subsection (a). The Chairman of the Joint Chiefs of Staff shall consult with the Commander of the Special Operations Command in the preparation of the report.

(c) **ASSESSMENT SCENARIO.**—The report shall assess readiness requirements in a scenario based on the following assumptions:

(1) The conflict is in a generic theater of operations located anywhere in the world and does not exceed the notional limits for a major regional conflict.

(2) The forces available for deployment include the forces described in the Bottom-Up Review force structure, including all planned force enhancements.

(3) Assistance is not available from allies.

(d) **ASSESSMENT ELEMENTS.**—The report shall identify by unit type and component, and assess the readiness requirements of, all active and reserve component units. Each such unit shall be categorized within one of the following classifications:

(1) Forward-deployed and crisis response forces, or "Tier I" forces, that possess limited internal sustainment capability and do not require immediate access to regional air bases or ports or overflight rights, including the following:

(A) Force units that are routinely deployed forward at sea or on land outside the United States.

(B) Combat-ready crises response forces that are capable of mobilizing and deploying within 10 days after receipt of orders.

(C) Forces that are supported by prepositioning equipment afloat or are capable of being inserted into a theater

upon the capture of a port or airfield by forcible entry forces.

(2) Combat-ready follow-on forces, or "Tier II" forces, that can be mobilized and deployed to a theater within approximately 60 days after receipt of orders.

(3) Combat-ready conflict resolution forces, or "Tier III" forces, that can be mobilized and deployed to a theater within approximately 180 days after receipt of orders.

(4) All other active and reserve component force units which are not categorized within a classification described in paragraph (1), (2), or (3).

(e) **ADDITIONAL INFORMATION REGARDING CERTAIN UNITS.**—With regard to each unit that is not categorized within a classification described in paragraph (1), (2), or (3) of subsection (d), the report shall include—

(1) a description of the mission and mobilization or deployment schedule (or both) of the unit in connection with the requirements of the assessment scenario and the combat readiness requirements of the Armed Forces; or

(2) an identification of the unit as excess to the needs of the national military strategy and the reasons therefor.

(f) **FORM OF REPORT.**—The report under this section shall be submitted in unclassified form but may contain a classified annex.

#### **SEC. 1048. REPORT ON NATO ENLARGEMENT.**

President.

(a) **REPORT.**—Not later than February 1, 1997, the President shall transmit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives a report on the enlargement of the North Atlantic Treaty Organization. The report shall contain a comprehensive discussion of the following:

(1) Geopolitical and financial costs and benefits, including financial savings, associated with—

(A) enlargement of the North Atlantic Treaty Organization;

(B) further delays in the process of enlargement of the North Atlantic Treaty Organization; and

(C) a failure to enlarge the North Atlantic Treaty Organization.

(2) Additional North Atlantic Treaty Organization and United States military expenditures requested by prospective members of the North Atlantic Treaty Organization to facilitate their admission into the North Atlantic Treaty Organization.

(3) Modifications necessary in the military strategy of the North Atlantic Treaty Organization and force structure required by the inclusion of new members and steps necessary to integrate new members, including the role of nuclear and conventional capabilities, reinforcement, force deployments, prepositioning of equipment, mobility, and headquarter locations.

(4) The relationship between enlargement of the North Atlantic Treaty Organization and transatlantic stability and security.

(5) The state of military preparedness and interoperability of Central and Eastern European nations as it relates to the responsibilities of membership of the North Atlantic Treaty

Organization and additional security costs or benefits that may accrue to the United States from enlargement of the North Atlantic Treaty Organization.

(6) The state of democracy and free market development as it affects the preparedness of Central and Eastern European nations for the responsibilities of membership of the North Atlantic Treaty Organization, including civilian control of the military, the rule of law, human rights, and parliamentary oversight.

(7) The state of relations between prospective members of the North Atlantic Treaty Organization and their neighbors, steps taken by prospective members to reduce tensions, and mechanisms for the peaceful resolution of border disputes.

(8) The commitment of prospective members of the North Atlantic Treaty Organization to the principles of the North Atlantic Treaty and the security of the North Atlantic area.

(9) The effect of enlargement of the North Atlantic Treaty Organization on the political, economic, and security conditions of European Partnership for Peace nations not among the first new members of the North Atlantic Treaty Organization.

(10) The relationship between enlargement of the North Atlantic Treaty Organization and EU enlargement and the costs and benefits of both.

(11) The relationship between enlargement of the North Atlantic Treaty Organization and treaties relevant to United States and European security, such as the Conventional Armed Forces in Europe Treaty.

(12) The anticipated impact both of enlargement of the North Atlantic Treaty Organization and further delays of enlargement on Russian foreign and defense policies and the costs and benefits of a security relationship between the North Atlantic Treaty Organization and Russia.

(b) INTERPRETATION.—Nothing in this section shall be interpreted or construed to affect the implementation of the NATO Participation Act of 1994 (title II of Public Law 103-447; 22 U.S.C. 1928 note), or any other program or activity which facilitates or assists prospective members of the North Atlantic Treaty Organization.

## **Subtitle E—Management of Armed Forces Retirement Home**

### **SEC. 1051. RETIREMENT HOME BOARDS OF DIRECTORS.**

(a) ADDITIONAL TERM OF OFFICE.—Subsection (e) of section 1515 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 415) is amended by adding at the end the following new paragraph:

“(3) The Chairman of the Retirement Home Board may appoint a member of the Retirement Home Board for a second consecutive term. The Chairman of a Local Board may appoint a member of that Local Board for a second consecutive term.”.

(b) EARLY EXPIRATION OF TERM.—(1) Subsection (f) of such section is amended to read as follows:

“(f) EARLY EXPIRATION OF TERM.—A member of the Armed Forces or Federal civilian employee who is appointed as a member of the Retirement Home Board or a Local Board may serve as a board member only so long as the member of the Armed Forces

or Federal civilian employee is assigned to or serving in the duty position that gave rise to the appointment as a board member.”.

(2) The amendment made by this subsection shall not affect the staggered terms of members of the Armed Forces Retirement Home Board or a Local Board of the Retirement Home under section 1515(f) of such Act, as such section is in effect before the date of the enactment of this Act.

24 USC 415 note.

(c) ANNUAL EVALUATION OF DIRECTORS.—Section 1517 of such Act (24 U.S.C. 417) is amended by striking out subsection (f) and inserting in lieu thereof the following:

“(f) ANNUAL EVALUATION OF DIRECTORS.—The Chairman of the Retirement Home Board shall annually evaluate the performance of the Directors and shall make such recommendations to the Secretary of Defense as the Chairman considers appropriate in light of the evaluation.”.

#### SEC. 1052. ACCEPTANCE OF UNCOMPENSATED SERVICES.

(a) AUTHORITY.—Part A of the Armed Forces Retirement Home Act of 1991 (title XV of Public Law 101-510; 24 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“SEC. 1522. AUTHORITY TO ACCEPT CERTAIN UNCOMPENSATED SERVICES. 24 USC 422.

“(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 31, United States Code, the Chairman of the Retirement Home Board or the Director of each establishment of the Retirement Home may accept from any person voluntary personal services or gratuitous services unless the acceptance of the voluntary services is disapproved by the Retirement Home Board.

“(b) REQUIREMENTS AND LIMITATIONS.—(1) The Chairman of the Retirement Home Board or the Director of the establishment accepting the services shall notify the person of the scope of the services accepted.

“(2) The Chairman or Director shall—

“(A) supervise the person providing the services to the same extent as that official would supervise a compensated employee providing similar services; and

“(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable laws or regulations to provide such services.

“(3) A person providing services accepted under subsection (a) may not—

“(A) serve in a policymaking position of the Retirement Home; or

“(B) be compensated for the services by the Retirement Home.

“(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Chairman of the Retirement Home Board or the Director of an establishment of the Retirement Home may recruit and train persons to provide services authorized to be accepted under subsection (a).

“(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing services accepted under subsection (a) or receiving training under subsection (c), a person shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

“(A) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work-related injuries).

“(B) Chapter 171 of title 28, United States Code (relating to claims for damages or loss).

“(2) A person providing services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) only with respect to services that are within the scope of the services accepted.

“(3) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5, United States Code (pursuant to this subsection) to a person providing services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

“(A) the average monthly number of hours that the person provided the services, by

“(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

“(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Chairman of the Retirement Board or the Director of the establishment accepting services under subsection (a) may provide for reimbursement of a person for incidental expenses incurred by the person in providing the services accepted under subsection (a). The Chairman or Director shall determine which expenses qualify for reimbursement under this subsection.”

(b) FEDERAL STATUS OF RESIDENTS PAID FOR PART-TIME OR INTERMITTENT SERVICES.—Paragraph (2) of section 1521(b) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 421(b)) is amended to read as follows:

“(2) being an employee of the United States for any purpose other than—

“(A) subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work-related injuries); and

“(B) chapter 171 of title 28, United States Code (relating to claims for damages or loss).”

#### SEC. 1053. DISPOSAL OF TRACT OF REAL PROPERTY IN THE DISTRICT OF COLUMBIA.

(a) DISPOSAL AUTHORIZED.—Notwithstanding title II the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), title VIII of such Act (40 U.S.C. 531 et seq.), section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), or any other provision of law relating to the management and disposal of real property by the United States, the Armed Forces Retirement Home Board may convey, by sale or otherwise, all right, title, and interest of the United States in a parcel of real property, including improvements thereon, consisting of approximately 49 acres located in Washington, District of Columbia, east of North Capitol Street, and recorded as District Parcel 121/19.

(b) MANNER, TERMS, AND CONDITIONS OF DISPOSAL.—The Armed Forces Retirement Home Board may determine—

(1) the manner for the disposal of the real property under subsection (a); and

(2) the terms and conditions for the conveyance of that property, including any terms and conditions that the Board considers necessary to protect the interests of the United States.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Armed Forces Retirement Home Board. The cost of the survey shall be borne by the party or parties to which the property is to be conveyed.

(d) **CONGRESSIONAL NOTIFICATION.**—(1) Before disposing of real property under subsection (a), the Armed Forces Retirement Home Board shall notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of the proposed disposal. The Board may not dispose of the real property until the later of—

(A) the date that is 60 days after the date on which the notification is received by the committees; or

(B) the date of the next day following the expiration of the first period of 30 days of continuous session of Congress that follows the date on which the notification is received by the committees.

(2) For the purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

## Subtitle F—Other Matters

### SEC. 1061. POLICY ON PROTECTION OF NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACK.

President.

(a) **REPORT REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth a national policy on protecting the national information infrastructure against strategic attack.

(b) **MATTERS TO BE INCLUDED.**—The policy described in the report shall include the following:

(1) Plans to meet essential Government and civilian needs during a national security emergency associated with a strategic attack on elements of the national information infrastructure the functioning of which depend on networked computer systems.

(2) The identification of information infrastructure functions that must be performed during such an emergency.

(3) The assignment of responsibilities to Federal departments and agencies, and a description of the roles of Government and industry, relating to indications and warning of, assessment of, response to, and reconstitution after, potential strategic attacks on the elements of the national information infrastructure described under paragraph (1).

(c) **UNRESOLVED ISSUES.**—The report shall also identify—

(1) matters relating to the national policy described in the report that, as of the submission of the report, are in need of further study and resolution, such as technology and funding shortfalls; and

(2) legal and regulatory considerations relating to the national policy.

(d) **UPDATE OF EARLIER REPORT.**—The report shall include an update of the report required to be submitted to Congress pursuant to section 1053 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 440).

**SEC. 1062. INFORMATION SYSTEMS SECURITY PROGRAM.**

(a) **ALLOCATION.**—Of the amounts appropriated for the Department of Defense for the Defense Information Infrastructure for each of fiscal years 1999 through 2002, the Secretary of Defense shall allocate to the information systems security program (program element 0303140K) amounts as follows:

- (1) For fiscal year 1999, 2.5 percent.
- (2) For fiscal year 2000, 3.0 percent.
- (3) For fiscal year 2001, 3.5 percent.
- (4) For fiscal year 2002, 4.0 percent.

(b) **RELATIONSHIP TO OTHER AMOUNTS.**—Amounts allocated under subsection (a) are in addition to amounts appropriated to the National Security Agency and the Defense Advanced Research Projects Agency for development of information security systems, acquisition of information security systems, and operation of information security systems.

(c) **REPORT.**—Not later than November 15, 1997, the Secretary of Defense shall submit to the congressional defense committees and the congressional intelligence committees a report on information security activities of the Department of Defense. The report shall describe—

(1) the objectives of the Secretary with respect to information security and the strategy of the Secretary (including the strategy with respect to funding) during fiscal years 1999 through 2002 to achieve those objectives;

(2) how the Secretary intends to manage and allocate the funds required by subsection (a) to be allocated to the information systems security program; and

(3) if the Secretary determines that a funding plan for the information systems security program for fiscal years 1999 through 2002 other than that specified in subsection (a) is appropriate, the alternative funding plan proposed by the Secretary.

(d) **DEFENSE INFORMATION INFRASTRUCTURE.**—For purposes of this section, the Defense Information Infrastructure is the web of communications networks, computers, software, databases, applications, data security services, and other capabilities that meets the information processing and transport needs of Department of Defense users.

**SEC. 1063. AUTHORITY TO ACCEPT SERVICES FROM FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS FOR DEFENSE PURPOSES.**

Section 2608(a) of title 10, United States Code, is amended by inserting before the period at the end the following: “and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense”.

**SEC. 1064. PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL.** 15 USC 5621 note.

(a) **COLLECTION AND DISSEMINATION.**—A department or agency of the United States may issue a license for the collection or dissemination by a non-Federal entity of satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

(b) **DECLASSIFICATION AND RELEASE.**—A department or agency of the United States may declassify or otherwise release satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

**SEC. 1065. GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES.** 10 USC 113 note.

(a) **AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.**—

(1) The Secretary of Defense may, on behalf of the George C. Marshall European Center for Strategic Security Studies (in this section referred to as the “Marshall Center”), accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Marshall Center.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Marshall Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Marshall Center for the same purposes and same period as the appropriations with which merged.

(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$2,000,000 in any fiscal year. Any such notice shall list each of the contributors of such amounts and the amount of each contribution in such fiscal year. Notification.

(4) For purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.

(b) **MARSHALL CENTER PARTICIPATION BY FOREIGN NATIONS.**—

(1) Notwithstanding any other provision of law, the Secretary of Defense may authorize participation by a European or Eurasian nation in Marshall Center programs if the Secretary determines, after consultation with the Secretary of State, that such participation is in the national interest of the United States.

(2) Not later than January 31 of each year, the Secretary of Defense shall submit to Congress a report setting forth the names of the foreign nations permitted to participate in programs of the Marshall Center during the preceding year under paragraph (1). Each such report shall be prepared by the Secretary with the assistance of the Director of the Marshall Center. Reports.

(c) **EXEMPTIONS FOR MEMBERS OF MARSHALL CENTER BOARD OF VISITORS FROM CERTAIN REQUIREMENTS.**—(1) In the case of any person invited to serve without compensation on the Marshall Center Board of Visitors, the Secretary of Defense may waive any requirement for financial disclosure that would otherwise apply to that person solely by reason of service on such Board.



(2) Notwithstanding any other provision of law, a member of the Marshall Center Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

(3) Notwithstanding section 219 of title 18, United States Code, a non-United States citizen may serve on the Marshall Center Board of Visitors even though registered as a foreign agent.

31 USC 5111  
note.

**SEC. 1066. AUTHORITY TO AWARD TO CIVILIAN PARTICIPANTS IN THE DEFENSE OF PEARL HARBOR THE CONGRESSIONAL MEDAL PREVIOUSLY AUTHORIZED ONLY FOR MILITARY PARTICIPANTS IN THE DEFENSE OF PEARL HARBOR.**

(a) **AUTHORITY.**—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized jointly to present, on behalf of Congress, a bronze medal provided for under section 1492 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1721) to any person who meets the eligibility requirements set forth in subsection (d) of that section other than the requirement for membership in the Armed Forces, as certified under subsection (e) of that section or under subsection (b) of this section.

(b) **CERTIFICATION.**—The Secretary of Defense shall, not later than 12 months after the date of the enactment of this Act, certify to the Speaker of the House of Representatives and the President pro tempore of the Senate the names of persons who are eligible for award of the medal under this Act and have not previously been certified under section 1492(e) of the National Defense Authorization Act for Fiscal Year 1991.

(c) **APPLICATIONS.**—Subsections (d)(2) and (f) of section 1492 of the National Defense Authorization Act for Fiscal Year 1991 shall apply in the administration of this section.

(d) **ADDITIONAL STRIKING AUTHORITY.**—The Secretary of the Treasury shall strike such additional medals as may be necessary for presentation under the authority of subsection (a).

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sum as may be necessary to carry out this section.

(f) **RETROACTIVE EFFECTIVE DATE.**—The authority under subsection (a) shall be effective as of November 5, 1990.

**SEC. 1067. ASSIMILATIVE CRIMES AUTHORITY FOR TRAFFIC OFFENSES ON MILITARY INSTALLATIONS.**

Section 4 of the Act of June 1, 1948 (40 U.S.C. 318c), is amended—

(1) by striking out “Whoever shall violate” and inserting in lieu thereof “(a) Except as provided in subsection (b), whoever violates”;

(2) by inserting “than” after “not more”; and

(3) by adding at the end the following:

“(b)(1) Whoever violates any military traffic regulation shall be fined an amount not to exceed the amount of the maximum fine for a like or similar offense under the criminal or civil law of the State, territory, possession, or district where the military installation in which the violation occurred is located, or imprisoned for not more than 30 days, or both.

“(2) For purposes of this subsection, the term ‘military traffic regulation’ means a rule or regulation for the control of vehicular or pedestrian traffic on military installations that is promulgated

by the Secretary of Defense, or the designee of the Secretary, under the authority delegated pursuant to section 2.”

**SEC. 1068. UNIFORM CODE OF MILITARY JUSTICE AMENDMENTS.**

(a) **TECHNICAL AMENDMENT REGARDING FORFEITURES DURING CONFINEMENT ADJUDGED BY A COURT-MARTIAL.**—(1) Section 858b(a)(1) of title 10, United States Code (article 58b(a)(1) of the Uniform Code of Military Justice), is amended—

(A) in the first sentence, by inserting “(if adjudged by a general court-martial)” after “all pay and”; and

(B) in the third sentence, by striking out “two-thirds of all pay and allowances” and inserting in lieu thereof “two-thirds of all pay”.

(2) The amendments made by paragraph (1) shall take effect as of April 1, 1996, and shall apply to any case in which a sentence is adjudged by a court-martial on or after that date.

(b) **EXCEPTED SERVICE APPOINTMENTS TO CERTAIN NONATTORNEY POSITIONS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.**—(1) Subsection (c) of section 943 of title 10, United States Code (article 143(c) of the Uniform Code of Military Justice) is amended in paragraph (1) by inserting after the first sentence the following: “A position of employment under the Court that is provided primarily for the service of one judge of the court, reports directly to the judge, and is a position of a confidential character is excepted from the competitive service.”

(2) The caption for such subsection is amended by striking out “ATTORNEY” and inserting in lieu thereof “CERTAIN”.

(c) **REPEAL OF 13-YEAR SPECIAL LIMIT ON TERM OF TRANSITIONAL JUDGE OF UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.**—(1) Subsection (d)(2) of section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1575; 10 U.S.C. 942 note) is amended by striking out “to the judges who are first appointed to the two new positions of the court created as of October 1, 1990—” and all that follows and inserting in lieu thereof “to the judge who is first appointed to one of the two new positions of the court created as of October 1, 1990, as designated by the President at the time of appointment, the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the seventh anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being seven.”

(2) Subsection (e)(1) of such section is amended by striking out “each judge” and inserting in lieu thereof “a judge”.

**SEC. 1069. PUNISHMENT OF INTERSTATE STALKING.**

(a) **IN GENERAL.**—Chapter 110A of title 18, United States Code, is amended by inserting after section 2261 the following new section:

**“§ 2261A. Interstate stalking**

“Whoever travels across a State line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365(g)(3) of this title) to, that person or a member of that person’s immediate family (as defined in section 115 of this title) shall be punished as provided in section 2261 of this title.”

Effective date.  
Applicability.  
10 USC 858b  
note.

(b) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended as follows:

(1) Section 2261(b) is amended by inserting “or section 2261A” after “this section”.

(2) Sections 2261(b) and 2262(b) are each amended by striking “offender’s spouse or intimate partner” each place it appears and inserting “victim”.

(3) The chapter heading for chapter 110A is amended by inserting “AND STALKING” after “VIOLENCE”.

(4) The item relating to chapter 110A in the table of chapters at the beginning of part I is amended to read as follows:

“110A. Domestic violence and stalking ..... 2261”.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110A of such title is amended by inserting after the item relating to section 2261 the following new item:

“2261A. Interstate stalking.”.

10 USC 113 note.

**SEC. 1070. PARTICIPATION OF MEMBERS, DEPENDENTS, AND OTHER PERSONS IN CRIME PREVENTION EFFORTS AT INSTALLATIONS.**

(a) CRIME PREVENTION PLAN.—The Secretary of Defense shall prepare and implement an incentive-based plan to encourage members of the Armed Forces, dependents of members, civilian employees of the Department of Defense, and employees of defense contractors performing work at military installations to report to an appropriate military law enforcement agency any crime or criminal activity that the person reasonably believes occurred on a military installation or involves a member of the Armed Forces.

(b) INCENTIVES TO REPORT CRIMINAL ACTIVITY.—The Secretary of Defense shall include in the plan developed under subsection (a) incentives for members and other persons described in such subsection to provide information to appropriate military law enforcement agencies regarding any crime or criminal activity occurring on a military installation or involving a member of the Armed Forces.

(c) REPORT REGARDING IMPLEMENTATION.—Not later than February 1, 1997, the Secretary shall submit to Congress a report describing the plan being developed under subsection (a).

**SEC. 1071. DISPLAY OF STATE FLAGS AT INSTALLATIONS AND FACILITIES OF THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2249b. Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display**

“(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to prescribe or enforce any rule that arbitrarily excludes the official flag of any State, territory, or possession of the United States from any display of the flags of the States, territories, and possessions of the United States at an official ceremony of the Department of Defense.

“(b) POSITION AND MANNER OF DISPLAY.—The display of an official flag of a State, territory, or possession of the United States at an installation or other facility of the Department shall be

governed by the provisions of section 3 of the Joint Resolution of June 22, 1942 (56 Stat. 378, chapter 435; 36 U.S.C. 175), and any modification of such provisions under section 8 of that Joint Resolution (36 U.S.C. 178).”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter I of such chapter is amended by adding at the end the following new item:

“2249b. Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display.”.

**SEC. 1072. TREATMENT OF EXCESS OPERATIONAL SUPPORT AIRLIFT AIRCRAFT.**

(a) **REUTILIZATION OR SALE BEFORE TRANSFER.**—An operational support airlift aircraft that is excess to the requirements of the United States shall be placed in an inactive status and stored at Davis-Monthan Air Force Base, Arizona, only upon the determination of the Secretary of Defense that all reasonable efforts for the reutilization of the aircraft by, or sale of the aircraft to, Federal agencies or other persons have been completed. The Secretary shall ensure that attempts to reutilize or sell the entire aircraft are given precedence over any reutilization or sale of individual parts or components of the aircraft.

Arizona.

(b) **OPERATIONAL SUPPORT AIRLIFT AIRCRAFT DEFINED.**—In this section, the term “operational support airlift aircraft” has the meaning given such term in section 1086(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 458).

**SEC. 1073. CORRECTION TO STATUTORY REFERENCES TO CERTAIN DEPARTMENT OF DEFENSE ORGANIZATIONS.**

(a) **NORTH AMERICAN AEROSPACE DEFENSE COMMAND.**—Section 162(a) of title 10, United States Code, is amended by striking out “North American Air Defense Command” in paragraphs (1), (2), and (3) and inserting in lieu thereof “North American Aerospace Defense Command”.

(b) **FORMER NAVAL RECORDS AND HISTORY OFFICE AND FUND.**—(1) Section 7222 of title 10, United States Code, is amended by striking out “Office of Naval Records and History” each place it appears in subsections (a) and (c) and inserting in lieu thereof “Naval Historical Center”.

(2)(A) The heading of such section is amended to read as follows:

**“§ 7222. Naval Historical Center Fund”.**

(B) The item relating to such section in the table of sections at the beginning of chapter 631 of title 10, United States Code, is amended to read as follows:

“7222. Naval Historical Center Fund.”.

(3) Section 2055(g) of the Internal Revenue Code of 1986 is amended by striking out paragraph (4) and inserting in lieu thereof the following:

26 USC 2055.

“(4) For treatment of gifts and bequests for the benefit of the Naval Historical Center as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.”.

(c) **DEFENSE DISTRIBUTION CENTER, ANNISTON.**—The Corporation for the Promotion of Rifle Practice and Firearms Safety Act

(title XVI of Public Law 104-106; 110 Stat. 515; 36 U.S.C. 5501 et seq.) is amended by striking out "Anniston Army Depot" each place it appears in the following provisions and inserting in lieu thereof "Defense Distribution Depot, Anniston":

(1) Section 1615(a)(3) (36 U.S.C. 5505(a)(3)).

(2) Section 1616(b) (36 U.S.C. 5506(b)).

(3) Section 1619(a)(1) (36 U.S.C. 5509(a)(1)).

(d) **CHEMICAL DEMILITARIZATION CITIZENS ADVISORY COMMISSIONS.**—Section 172 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2341; 50 U.S.C. 1521 note) is amended by striking out "Assistant Secretary of the Army (Installations, Logistics, and Environment)" in subsections (b) and (f) and inserting in lieu thereof "Assistant Secretary of the Army (Research, Development and Acquisition)".

(e) **DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.**—(1) Each of the following provisions of law is amended by inserting "Defense" before "Advanced Research Projects Agency" each place it appears:

(A) Section 5316 of title 5, United States Code.

(B) Subsections (b), (f), and (i) of section 2371 of title 10, United States Code.

(C) Section 822(c)(1)(D) of Public Law 101-510 (42 U.S.C. 6686).

(D) Section 845(a) of Public Law 103-160 (10 U.S.C. 2371 note).

(E) Section 243(a) of Public Law 103-160 (10 U.S.C. 2431 note).

(F) Sections 1352(c)(2), 1353, and 1354(a) of Public Law 103-160 (10 U.S.C. 2501 note).

(2) The section headings of each of the following sections are amended by inserting "DEFENSE" before "ADVANCED":

(A) Section 845 of Public Law 103-160 (10 U.S.C. 2371 note).

(B) Sections 1353 and 1354 of Public Law 103-160 (10 U.S.C. 2501 note).

(3) The heading for subsection (a) of section 1354 of Public Law 103-160 (10 U.S.C. 2501 note) is amended by striking out "ARPA" and inserting in lieu thereof "DARPA".

#### **SEC. 1074. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) **MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.**—Title 10, United States Code, is amended as follows:

(1) Section 129(a) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996" and inserting in lieu thereof "February 10, 1996".

(2) Section 401 is amended—

(A) in subsection (a)(4), by striking out "Armed Forces" both places it appears and inserting in lieu thereof "armed forces"; and

(B) in subsection (e), by inserting "any of the following" after "means".

(3) Section 528(b) is amended by striking out "(1)" after "(b)" and inserting "(1)" before "The limitation".

(4) Section 1078a(a) is amended by striking out "Beginning on October 1, 1994, the" and inserting in lieu thereof "The".

(5) Section 1161(b)(2) is amended by striking out "section 1178" and inserting in lieu thereof "section 1167".

(6) Section 1167 is amended by striking out “person” and inserting in lieu thereof “member”.

(7) The table of sections at the beginning of chapter 81 is amended by striking out “Sec.” in the item relating to section 1599a.

(8) Section 1588(d)(1)(C) is amended by striking out “Section 522a” and inserting in lieu thereof “Section 552a”.

(9) Chapter 87 is amended—

(A) in section 1723(a), by striking out the second sentence;

(B) in section 1724—

(i) in subsection (a), by striking out “small purchase threshold” and inserting in lieu thereof “simplified acquisition threshold”; and

(ii) in subsections (a) and (b), by striking out “, beginning on October 1, 1993,”;

(C) in section 1733(a), by striking out “On and after October 1, 1993, a” and inserting in lieu thereof “A”; and

(D) in section 1734—

(i) in subsection (a)(1), by striking out “, on and after October 1, 1993,”; and

(ii) in subsection (b)(1)(A), by striking out “, on and after October 1, 1991,”.

(10) Section 2216, as added by section 371 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 107 Stat. 277), is redesignated as section 2216a, and the item relating to that section in the table of sections at the beginning of chapter 131 is revised so as to reflect such redesignation.

*Ante*, p. 277.

(11) Section 2305(b)(6) is amended—

(A) in subparagraph (B), by striking out “of this section” and “of this paragraph”;

(B) in subparagraph (C), by striking out “this subsection” and inserting in lieu thereof “subparagraph (A)”; and

(C) in subparagraph (D), by striking out “pursuant to this subsection” and inserting in lieu thereof “under subparagraph (A)”.

(12) Section 2306a(h)(3) is amended by inserting “(41 U.S.C. 403(12))” before the period at the end.

(13) Section 2323a(a) is amended by striking out “section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)” and inserting in lieu thereof “section 2323 of this title”.

(14) Section 2534(c)(4) is amended by striking out “the date occurring two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996” and inserting in lieu thereof “February 10, 1998”.

(15) The table of sections at the beginning of chapter 155 is amended by striking out the item relating to section 2609.

(16) Section 2610(e) is amended by striking out “two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996” and inserting in lieu thereof “on February 10, 1998”.

(17) Sections 2824(c) and 2826(i)(1) are amended by striking out “the date of the enactment of the National Defense

Authorization Act for Fiscal Year 1996" and inserting in lieu thereof "February 10, 1996".

(18) Section 3036(d)(3) is amended by striking out "For purposes of this subsection," and inserting in lieu thereof "In this subsection,".

(19) The table of sections at the beginning of chapter 641 is amended by striking out the item relating to section 7434.

(20) Section 7863 is amended by inserting "were" in the first sentence after "the stores".

(21) Section 10542(b)(21) is amended by striking out "261" and inserting in lieu thereof "12001".

(22) Section 12205(a) is amended by striking out "After September 30, 1995, no person" and inserting in lieu thereof "No person".

(b) AMENDMENTS TO PUBLIC LAW 104-106.—The National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 186 et seq.) is amended as follows:

10 USC 1405.

(1) Section 561(d)(1) (110 Stat. 322) is amended by inserting "of such title" after "Section 1405(c)".

(2) Section 1092(b)(2) (110 Stat. 460) is amended by striking out the period at the end and inserting in lieu thereof "; and".

10 USC 2410b.

(3) Section 4301(a)(1) (110 Stat. 656) is amended by inserting "of subsection (a)" after "in paragraph (2)".

10 USC 2305.

(4) Section 5601 (110 Stat. 699) is amended—

(A) in subsection (a), by inserting "of title 10, United States Code," before "is amended"; and

10 USC 2315.

(B) in subsection (c), by striking out "use of equipment or services if," in the second quoted matter therein and inserting in lieu thereof "use of the equipment or services".

Effective date.  
41 USC 427.

(5) Section 3403 (110 Stat. 631) is amended by striking out "Act of Fiscal" and inserting in lieu thereof "Act for Fiscal".

(6) Section 4202(c)(1) (110 Stat. 653) is amended, effective as of February 10, 1996, by striking out "purchases of" in the first quoted matter therein and inserting in lieu thereof "contracts for".

Effective date.  
41 USC 253b.

(7) Section 5607(c) (110 Stat. 701) is amended, effective as of February 10, 1996—

(A) by striking out "303B(h)" and by inserting in lieu thereof "303B(k)"; and

(B) by striking out "253b(h)" and by inserting in lieu thereof "253b(k)".

(c) PROVISIONS EXECUTED BEFORE ENACTMENT OF PUBLIC LAW 104-106.—

Applicability.  
10 USC 6975  
note.

(1) Section 533(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 315) shall apply as if enacted as of December 31, 1995.

Effective date.  
10 USC 942 note.

(2) The authority provided under section 942(f) of title 10, United States Code, shall be effective as if section 1142 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 467) had been enacted on September 29, 1995.

(d) AMENDMENTS TO OTHER ACTS.—

(1) The last section of the Office of Federal Procurement Policy Act (41 U.S.C. 434), as added by section 5202 of Public Law 104-106 (110 Stat. 690), is redesignated as section 38, and the item appearing after section 34 in the table of contents

in the first section of that Act is transferred to the end of such table of contents and revised so as to reflect such redesignation.

(2) Section 1412(g)(2) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)(2)), is amended—

(A) in the matter preceding subparagraph (A), by striking out “shall contain—” and inserting in lieu thereof “shall include the following:”;

(B) in subparagraph (A)—

(i) by striking out “a” before “site-by-site” and inserting in lieu thereof “A”; and

(ii) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(C) in subparagraphs (B) and (C), by striking out “an” at the beginning of the subparagraph and inserting in lieu thereof “An”.

(3) Section 3131 of Public Law 99-570 (19 U.S.C. 2081; 100 Stat. 3207-91) is amended in clause (v) of subsection (a)(1)(A) by striking out “and (c)” both places it appears.

(e) COORDINATION WITH OTHER AMENDMENTS.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

(f) AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended as follows:

(1) Section 6(f) (41 U.S.C. 405(f)) is amended by striking out “the policies set forth in section 2 or”.

(2) Section 15(a) (41 U.S.C. 413(a)) is amended by striking out the second sentence.

(3) Section 25 (41 U.S.C. 421) is amended—

(A) in subsection (c)—

(i) in paragraph (3), by striking out “the policies set forth in section 2 of this Act or”; and

(ii) in paragraph (5), by striking out “or the policies set forth in section 2 of this Act”; and

(B) in subsection (e), by striking out “the policies of section 2 and”.

#### **SEC. 1075. MODIFICATION TO THIRD-PARTY LIABILITY TO UNITED STATES FOR TORTIOUS INFLECTION OF INJURY OR DISEASE ON MEMBERS OF THE UNIFORMED SERVICES.**

(a) RECOVERY OF PAY AND ALLOWANCES.—The first section of Public Law 87-693 (42 U.S.C. 2651) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting “or pay for” after “required by law to furnish”; and

(B) by striking out “or to be furnished” both places it appears and inserting in lieu thereof “, to be furnished, paid for, or to be paid for”;

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a), the following new subsections:

“(b) If a member of the uniformed services is injured, or contracts a disease, under circumstances creating a tort liability upon a third person (other than or in addition to the United States

Applicability.  
10 USC 101 note.



and except employers of seamen referred to in subsection (a)) for damages for such injury or disease and the member is unable to perform the member's regular military duties as a result of the injury or disease, the United States shall have a right (independent of the rights of the member) to recover from the third person or an insurer of the third person, or both, the amount equal to the total amount of the pay that accrues and is to accrue to the member for the period for which the member is unable to perform such duties as a result of the injury or disease and is not assigned to perform other military duties.

"(c)(1) If, pursuant to the laws of a State that are applicable in a case of a member of the uniformed services who is injured or contracts a disease as a result of tortious conduct of a third person, there is in effect for such a case (as a substitute or alternative for compensation for damages through tort liability) a system of compensation or reimbursement for expenses of hospital, medical, surgical, or dental care and treatment or for lost pay pursuant to a policy of insurance, contract, medical or hospital service agreement, or similar arrangement, the United States shall be deemed to be a third-party beneficiary of such a policy, contract, agreement, or arrangement.

"(2) For the purposes of paragraph (1)—

"(A) the expenses incurred or to be incurred by the United States for care and treatment for an injured or diseased member as described in subsection (a) shall be deemed to have been incurred by the member;

"(B) the cost to the United States of the pay of the member as described in subsection (b) shall be deemed to have been pay lost by the member as a result of the injury or disease; and

"(C) the United States shall be subrogated to any right or claim that the injured or diseased member or the member's guardian, personal representative, estate, dependents, or survivors have under a policy, contract, agreement, or arrangement referred to in paragraph (1) to the extent of the reasonable value of the care and treatment and the total amount of the pay deemed lost under subparagraph (B).";

(4) in subsection (d), as redesignated by paragraph (2), by inserting "or paid for" after "treatment is furnished"; and

(5) by adding at the end the following:

"(f)(1) Any amount recovered under this section for medical care and related services furnished by a military medical treatment facility or similar military activity shall be credited to the appropriation or appropriations supporting the operation of that facility or activity, as determined under regulations prescribed by the Secretary of Defense.

"(2) Any amount recovered under this section for the cost to the United States of pay of an injured or diseased member of the uniformed services shall be credited to the appropriation that supports the operation of the command, activity, or other unit to which the member was assigned at the time of the injury or illness, as determined under regulations prescribed by the Secretary concerned.

"(g) For the purposes of this section:

"(1) The term 'uniformed services' has the meaning given such term in section 101 of title 10, United States Code.

“(2) The term ‘tortious conduct’ includes any tortious omission.

“(3) The term ‘pay’, with respect to a member of the uniformed services, means basic pay, special pay, and incentive pay that the member is authorized to receive under title 37, United States Code, or any other law providing pay for service in the uniformed services.

“(4) The term ‘Secretary concerned’ means—

“(A) the Secretary of Defense, with respect to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating as a service in the Navy);

“(B) the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy;

“(C) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

“(D) the Secretary of Commerce, with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.”.

(b) CONFORMING AMENDMENTS.—The first section of Public Law 87-693 (42 U.S.C. 2651) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting “(independent of the rights of the injured or diseased person)” after “a right to recover”; and

(B) by inserting “, or that person’s insurer,” after “from said third person”;

(2) in subsection (d), as redesignated by subsection (a)(2)—

(A) by striking out “such right,” and inserting in lieu thereof “a right under subsections (a), (b), and (c)”; and

(B) by inserting “or the insurance carrier or other entity responsible for the payment or reimbursement of medical expenses or lost pay” after “the third person who is liable for the injury or disease” each place it appears.

(c) EFFECTIVE DATE.—The authority to collect pursuant to the amendments made by this section shall apply to expenses described in the first section of Public Law 87-693 (as amended by this section) that are incurred, or are to be incurred, by the United States on or after the date of the enactment of this Act, whether the event from which the claim arises occurs before, on, or after that date.

Applicability.  
42 USC 2651  
note.

#### SEC. 1076. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report assessing the implementation and success of the establishment of site-specific Integrated Product and Process Teams as a management tool for the Chemical Stockpile Emergency Preparedness Program.

(b) CONTINGENT MANDATED REFORMS.—If at the end of the 120-day period beginning on the date of the enactment of this Act the Secretary of the Army and the Director of the Federal Emergency Management Agency have been unsuccessful in

Effective date.

implementing a site-specific Integrated Product and Process Team with each of the affected States, the Secretary of the Army shall—

(1) assume full control and responsibility for the Chemical Stockpile Emergency Preparedness Program (eliminating the role of the Director of the Federal Emergency Management Agency as joint manager of the program);

(2) establish programmatic agreement with each of the affected States regarding program requirements, implementation schedules, training and exercise requirements, and funding (to include direct grants for program support);

(3) clearly define the goals of the program; and

(4) establish fiscal constraints for the program.

**SEC. 1077. EXEMPTION FROM REQUIREMENTS APPLICABLE TO SAVINGS ASSOCIATIONS FOR CERTAIN SAVINGS INSTITUTIONS SERVING MILITARY PERSONNEL.**

Section 10(m)(3)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(3)(F)) is amended—

(1) in the subparagraph caption, by striking out "ASSOCIATION SERVING TRANSIENT" and inserting in lieu thereof "ASSOCIATIONS SERVING CERTAIN";

(2) by striking out "company if—" and all that follows through "90 percent" and inserting in lieu thereof "company if at least 90 percent"; and

(3) by striking out "officers" both places it appears and inserting in lieu thereof "members".

Fellowships and  
scholarships.

**SEC. 1078. IMPROVEMENTS TO NATIONAL SECURITY EDUCATION PROGRAM.**

(a) TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104-61; 109 Stat. 650), is amended in the paragraph under the heading "NATIONAL SECURITY EDUCATION TRUST FUND" by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—(1) Subparagraph (A) of subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended to read as follows:

"(A) awarding scholarships to undergraduate students who—

"(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A)) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d)); and

"(ii) pursuant to subsection (b)(2)(A), enter into an agreement to work in a national security position or work in the field of higher education in the area of study for which the scholarship was awarded;"; and

(2) Subparagraph (B) of that subsection is amended—

(A) in clause (i), by inserting "relating to the national security interests of the United States" after "international fields"; and

(B) in clause (ii)—

(i) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(2)(B)"; and

(ii) by striking out “work for an agency or office of the Federal Government or in” and inserting in lieu thereof “work in a national security position or work in”.

(c) SERVICE AGREEMENT.—(1) Subsection (b) of that section is amended in the matter preceding paragraph (1) by striking out “, or of scholarships” and all that follows through “12 months or more,” and inserting in lieu thereof “or any scholarship”.

(2) Paragraph (2) of that subsection is amended to read as follows:

“(2) will—

“(A) not later than eight years after such recipient’s completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

“(i) work in a national security position for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

“(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

“(B) upon completion of such recipient’s education under the program, and in accordance with such regulations—

“(i) work in a national security position for a period specified by the Secretary, which period shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

“(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and”.

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of these tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.”.

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting “, including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in a national security position” before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out “Make recommendations” and inserting in lieu thereof “After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations”;

(B) in subparagraph (A), by inserting “and countries which are of importance to the national security interests of the United States” after “are studying”; and

(C) in subparagraph (B), by inserting “relating to the national security interests of the United States” after “section 802(a)(1)(B)”;

(3) by redesignating paragraph (5) as paragraph (8); and

(4) by inserting after paragraph (4) the following new paragraphs:

“(5) Encourage applications for fellowships under this title from graduate students having an educational background in any academic discipline, particularly in the areas of science or technology.

Records.

“(6) Provide the Secretary biennially with a list of scholarship recipients and fellowship recipients, including an assessment of their foreign area and language skills, who are available to work in a national security position.

Reports.

“(7) Not later than 30 days after a scholarship or fellowship recipient completes the study or education for which assistance was provided under the program, provide the Secretary with a report fully describing the foreign area and language skills obtained by the recipient as a result of the assistance.”.

(f) NATIONAL SECURITY POSITION DEFINED.—(1) Section 808 of that Act (50 U.S.C. 1908) is amended by adding at the end the following new paragraph:

“(4) The term ‘national security position’ means a position—

“(A) having national security responsibilities in a agency or office of the Federal Government that has national security responsibilities, as determined under section 802(g); and

“(B) in which the individual in such position makes their foreign language skills available to such agency or office.”.

(2) Section 802 of that Act (50 U.S.C. 1902), as amended by subsection (d)(1) of this section, is further amended by adding at the end the following new subsection:

Records.

“(g) DETERMINATION OF AGENCIES AND OFFICES OF THE FEDERAL GOVERNMENT HAVING NATIONAL SECURITY RESPONSIBILITIES.—(1) The Secretary, in consultation with the Board, shall annually determine and develop a list identifying each agency or office of the Federal Government having national security responsibilities at which a recipient of a fellowship or scholarship under this title will be able to make the recipient’s foreign area and language skills available to such agency or office. The Secretary shall submit the first such list to the Congress and include each subsequent

list in the annual report to the Congress, as required by section 806(b)(6).

“(2) Notwithstanding section 804, funds may not be made available from the Fund to carry out this title for fiscal year 1997 until 30 days after the date on which the Secretary of Defense submits to the Congress the first such list required by paragraph (1).”

(3) Section 806(b) of that Act (50 U.S.C. 1906(b)) is amended by striking out “and” at the end of paragraph (5), redesignating paragraph (6) as paragraph (7), and inserting after paragraph (5) the following new paragraph (6):

“(6) the current list of agencies and offices of the Federal Government required to be developed by section 802(g); and”.

(g) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established under the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall include an assessment of the contribution of the program, as so improved, in meeting the national security objectives of the United States.

#### **SEC. 1079. AVIATION AND VESSEL WAR RISK INSURANCE.**

(a) AVIATION RISK INSURANCE.—(1) Chapter 931 of title 10, United States Code, is amended by adding at the end the following new section:

##### **“§ 9514. Indemnification of Department of Transportation for losses covered by defense-related aviation insurance**

“(a) PROMPT INDEMNIFICATION REQUIRED.—(1) In the event of a loss that is covered by defense-related aviation insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification—

“(A) in the case of a claim for the loss of an aircraft hull, not later than 30 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the defense-related aviation insurance; and

“(B) in the case of any other claim, not later than 180 days after the date on which the Secretary of Transportation determines the claim to be payable.

“(2) When there is a loss of an aircraft hull that is (or may be) covered by defense-related aviation insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such aircraft. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the aircraft hull to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under

the aviation insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

“(b) SOURCE OF FUNDS FOR PAYMENT OF INDEMNITY.—The Secretary of Defense may pay an indemnity described in subsection (a) from any funds available to the Department of Defense for operation and maintenance, and such sums as may be necessary for payment of such indemnity are hereby authorized to be transferred to the Secretary of Transportation for such purpose.

“(c) NOTICE TO CONGRESS.—In the event of a loss that is covered by defense-related aviation insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of \$1,000,000, the Secretary of Defense shall submit to Congress—

“(1) notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss; and

“(2) semiannual reports thereafter updating the information submitted under paragraph (1) and showing with respect to losses arising from such incident the total amount expended to cover such losses, the source of those funds, pending litigation, and estimated total cost to the Government.

“(d) IMPLEMENTING MATTERS.—(1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

“(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

“(e) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

“(f) ANNUAL REPORT ON CONTINGENT LIABILITIES.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report setting forth the current amount of the contingent outstanding liability of the United States under the insurance program under chapter 443 of title 49.

“(g) DEFINITIONS.—In this section:

“(1) DEFENSE-RELATED AVIATION INSURANCE.—The term ‘defense-related aviation insurance’ means aviation insurance and reinsurance provided through policies issued by the Secretary of Transportation under chapter 443 of title 49 that pursuant to section 44305(b) of that title is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

“(2) LOSS.—The term ‘loss’ includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the defense-related aviation insurance.”

Reports.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“9514. Indemnification of Department of Transportation for losses covered by defense-related aviation insurance.”

(b) VESSEL WAR RISK INSURANCE.—(1) Chapter 157 of title 10, United States Code, is amended by adding after section 2644, as redesignated by section 906, the following new section:

**“§ 2645. Indemnification of Department of Transportation for losses covered by vessel war risk insurance**

“(a) PROMPT INDEMNIFICATION REQUIRED.—(1) In the event of a loss that is covered by vessel war risk insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification—

“(A) in the case of a claim for the loss of a vessel, not later than 90 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the vessel war risk insurance; and

“(B) in the case of any other claim, not later than 180 days after the date on which the Secretary of Transportation determines the claim to be payable.

“(2) When there is a loss of a vessel that is (or may be) covered by vessel war risk insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such vessel. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the vessel to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under the vessel war risk insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

“(b) SOURCE OF FUNDS FOR PAYMENT OF INDEMNITY.—The Secretary of Defense may pay an indemnity described in subsection (a) from any funds available to the Department of Defense for operation and maintenance, and such sums as may be necessary for payment of such indemnity are hereby authorized to be transferred to the Secretary of Transportation for such purpose.

“(c) DEPOSIT OF FUNDS.—Any amount transferred to the Secretary of Transportation under this section shall be deposited in, and merged with amounts in, the Vessel War Risk Insurance Fund as provided in the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a)).

“(d) NOTICE TO CONGRESS.—In the event of a loss that is covered by vessel war risk insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of \$1,000,000, the Secretary of Defense shall submit to Congress—



Reports.

"(1) notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss; and

"(2) semiannual reports thereafter updating the information submitted under paragraph (1) and showing with respect to losses arising from such incident the total amount expended to cover such losses, the source of such funds, pending litigation, and estimated total cost to the Government.

"(e) IMPLEMENTING MATTERS.—(1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

"(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

"(f) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

"(g) ANNUAL REPORT ON CONTINGENT LIABILITIES.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report setting forth the current amount of the contingent outstanding liability of the United States under the vessel war risk insurance program under title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.).

"(h) DEFINITIONS.—In this section:

"(1) VESSEL WAR RISK INSURANCE.—The term 'vessel war risk insurance' means insurance and reinsurance provided through policies issued by the Secretary of Transportation under title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.), that is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

"(2) VESSEL WAR RISK INSURANCE FUND.—The term 'Vessel War Risk Insurance Fund' means the insurance fund referred to in the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a)).

"(3) LOSS.—The term 'loss' includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the vessel war risk insurance."

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2644, as added by section 906, the following new item:

"2645. Indemnification of Department of Transportation for losses covered by vessel war risk insurance."

Virginia.  
16 USC 431 note.

#### SEC. 1080. DESIGNATION OF MEMORIAL AS NATIONAL D-DAY MEMORIAL.

(a) DESIGNATION.—The memorial to be constructed by the National D-Day Memorial Foundation in Bedford, Virginia, is hereby designated as a national memorial to be known as the "National D-Day Memorial". The memorial shall serve to honor the members of the Armed Forces of the United States who served in the liberation of Normandy, France, in June 1944.

(b) **PUBLIC PROCLAMATION.**—The President is requested and urged to issue a public proclamation acknowledging the designation of the memorial to be constructed by the National D-Day Memorial Foundation in Bedford, Virginia, as the National D-Day Memorial.

(c) **MAINTENANCE OF MEMORIAL.**—All expenses for maintenance and care of the memorial shall be paid for with non-Federal funds, including funds provided by the National D-Day Memorial Foundation. The United States shall not be liable for any expense incurred for the maintenance and care of the memorial.

**SEC. 1081. SENSE OF CONGRESS REGARDING SEMICONDUCTOR TRADE AGREEMENT BETWEEN UNITED STATES AND JAPAN.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo.

William J.  
Clinton.  
Ryutaro  
Hashimoto.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Deregulation of the Japanese economy requires government attention to the removal of barriers to imports of manufactured goods.

(4) The United States-Japan Semiconductor Trade Agreement has begun the process of deregulation in the semiconductor sector and is opening the Japanese market to competitive foreign products.

(5) The United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector.

(6) The mechanisms include joint calculation of foreign market share, deterrence of dumping, and promotion of industrial cooperation in the design of foreign semiconductor devices.

(7) Because of these actions under the United States-Japan Semiconductor Trade Agreement, the United States and Japan today enjoy trade in semiconductors which is mutually beneficial, harmonious, and free from the friction that once characterized the semiconductor industry.

(8) Because of structural barriers in Japan, a gap still remains between the share of the world market for semiconductor products outside Japan that the United States and other foreign semiconductor sources are able to capture through competitiveness and the share of the Japanese semiconductor market that the United States and those other sources are able to capture through competitiveness, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications.

(9) The competitiveness and health of the United States semiconductor industry is of critical importance to the overall

economic well-being and high-technology defense capabilities of the United States.

(10) The economic interests of both the United States and Japan are best served by well functioning, open markets, deterrence of dumping, and continuing good cooperative relationships in all sectors, including semiconductors.

(11) A strong and healthy military and political alliance between the United States and Japan requires continuation of the industrial and economic cooperation promoted by the United States-Japan Semiconductor Trade Agreement.

(12) President Clinton has called on the Government of Japan to agree to a continuation of the United States-Japan Semiconductor Trade Agreement beyond the current agreement's expiration on July 31, 1996.

(13) The Government of Japan has opposed any continuation of the United States-Japan Semiconductor Trade Agreement to promote cooperation in United States-Japan semiconductor trade.

(b) SENSE OF CONGRESS.—On the basis of the findings contained in subsection (a), it is the sense of Congress that—

(1) it is regrettable that the Government of Japan has refused to consider continuation of the United States-Japan Semiconductor Trade Agreement to ensure that cooperation continues in the semiconductor sector beyond the expiration of the agreement on July 31, 1996; and

(2) the President should take all necessary and appropriate actions to ensure the resumption and extension of the United States-Japan Semiconductor Trade Agreement beyond July 31, 1996.

(c) DEFINITION.—For purposes of this section, the term “United States-Japan Semiconductor Trade Agreement” refers to the agreement between the United States and Japan concerning trade in semiconductor products, with arrangement, done by exchange of letters at Washington on June 11, 1991.

10 USC 168 note.

**SEC. 1082. AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.**

(a) AUTHORITY TO ENTER INTO INTERNATIONAL EXCHANGE AGREEMENTS.—(1) The Secretary of Defense may enter into international defense personnel exchange agreements.

(2) For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of an ally of the United States or another friendly foreign country for the exchange of—

(A) military and civilian personnel of the Department of Defense; and

(B) military and civilian personnel of the defense ministry of that foreign government.

(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense and personnel of the Department of Defense may be assigned to positions in the defense ministry of such foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government.

(3) An individual may not be assigned to a position pursuant to an international defense personnel exchange agreement unless the assignment is acceptable to both governments.

(c) **RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.**—Each government shall be required under an international defense personnel exchange agreement to provide personnel with qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

(d) **PAYMENT OF PERSONNEL COSTS.**—(1) Each government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its own personnel in accordance with the applicable laws and regulations of such government.

(2) Paragraph (1) does not apply to the following costs:

(A) The cost of temporary duty directed by the host government.

(B) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

(C) Costs incident to the use of the facilities of the host government in the performance of assigned duties.

(e) **PROHIBITED CONDITIONS.**—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

(f) **RELATIONSHIP TO OTHER AUTHORITY.**—The requirements in subsections (c) and (d) shall apply in the exercise of any authority of the Secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for the exchange of members of the armed forces and military personnel of the foreign country. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.

#### **SEC. 1083. SENSE OF SENATE REGARDING BOSNIA AND HERZEGOVINA.**

It is the sense of the Senate that, notwithstanding any other provision of law, in order to maximize the amount of equipment provided to the Government of Bosnia and Herzegovina under the authority contained in section 540 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 737), the price of the transferred equipment shall not exceed the lowest level at which the same or similar equipment has been transferred to any other country under any other United States Government program.

#### **SEC. 1084. DEFENSE BURDENSARING.**

(a) **EFFORTS TO INCREASE ALLIED BURDENSARING.**—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) Increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that

President.  
22 USC 1928  
note.

nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide.

(b) **AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.**—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

(5) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

(c) **REPORT ON PROGRESS IN INCREASING ALLIED BURDENSARING.**—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (a);

(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a); and

(3) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(d) **REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSARING RELATIONSHIPS.**—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United

States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1997, in classified and unclassified form.

(e) REPORT DATE.—Section 1003(c) of Public Law 98-515 is amended by striking out “each year” and inserting “by March 1, 1998, and every other year thereafter”.

## **TITLE XI—NATIONAL IMAGERY AND MAPPING AGENCY**

National Imagery  
and Mapping  
Agency Act of  
1996.

Sec. 1101. Short title.

Sec. 1102. Findings.

Sec. 1103. Role of Director of Central Intelligence in appointment and evaluation of certain intelligence officials.

### **Subtitle A—Establishment of Agency**

Sec. 1111. Establishment.

Sec. 1112. Missions and authority.

Sec. 1113. Transfers of personnel and assets.

Sec. 1114. Compatibility with authority under the National Security Act of 1947.

Sec. 1115. Creditable civilian service for career conditional employees of the Defense Mapping Agency.

Sec. 1116. Saving provisions.

Sec. 1117. Definitions.

Sec. 1118. Authorization of appropriations.

### **Subtitle B—Conforming Amendments and Effective Dates**

Sec. 1121. Redesignation and repeals.

Sec. 1122. Reference amendments.

Sec. 1123. Headings and clerical amendments.

Sec. 1124. Effective date.

10 USC 441 note. **SEC. 1101. SHORT TITLE.**

This title may be cited as the “National Imagery and Mapping Agency Act of 1996”.

10 USC 441 note. **SEC. 1102. FINDINGS.**

Congress makes the following findings:

(1) There is a need within the Department of Defense and the Intelligence Community of the United States to provide a single agency focus for the growing number and diverse types of customers for imagery and geospatial information resources within the Government, to ensure visibility and accountability for those resources, and to harness, leverage, and focus rapid technological developments to serve the imagery, imagery intelligence, and geospatial information customers.

(2) There is a need for a single Government agency to solicit and advocate the needs of that growing and diverse pool of customers.

(3) A single combat support agency dedicated to imagery, imagery intelligence, and geospatial information could act as a focal point for support of all imagery intelligence and geospatial information customers, including customers in the Department of Defense, the Intelligence Community, and related agencies outside of the Department of Defense.

(4) Such an agency would best serve the needs of the imagery, imagery intelligence, and geospatial information customers if it were organized—

(A) to carry out its mission responsibilities under the authority, direction, and control of the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff; and

(B) to carry out its responsibilities to national intelligence customers in accordance with policies and priorities established by the Director of Central Intelligence.

**SEC. 1103. ROLE OF DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENT AND EVALUATION OF CERTAIN INTELLIGENCE OFFICIALS.**

(a) IN GENERAL.—Section 201 of title 10, United States Code, is amended to read as follows:

**“§ 201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance**

“(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.

“(b) CONCURRENCE IN APPOINTMENT.—(1) Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director’s concur-

rence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

“(2) Paragraph (1) applies to the following positions:

“(A) The Director of the National Security Agency.

“(B) The Director of the National Reconnaissance Office.

“(C) The Director of the National Imagery and Mapping Agency.

“(c) PERFORMANCE EVALUATIONS.—(1) The Director of Central Intelligence shall provide annually to the Secretary of Defense, for the Secretary’s consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Foreign Intelligence Program.

“(2) The positions referred to in paragraph (1) are the following:

“(A) The Director of the National Security Agency.

“(B) The Director of the National Reconnaissance Office.

“(C) The Director of the National Imagery and Mapping Agency.”.

(b) CLERICAL AMENDMENT.—The item relating to section 201 in the table of sections at the beginning of subchapter II of chapter 8 of such title is amended to read as follows:

“201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance.”.

## Subtitle A—Establishment of Agency

### SEC. 1111. ESTABLISHMENT.

10 USC 441 note.

(a) ESTABLISHMENT.—There is hereby established in the Department of Defense a Defense Agency to be known as the National Imagery and Mapping Agency.

(b) TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE ENTITIES.—The missions and functions of the following elements of the Department of Defense are transferred to the National Imagery and Mapping Agency:

(1) The Defense Mapping Agency.

(2) The Central Imagery Office.

(3) Other elements of the Department of Defense as specified in the classified annex to this Act.

(c) TRANSFER OF FUNCTIONS FROM CENTRAL INTELLIGENCE AGENCY.—The missions and functions of the following elements of the Central Intelligence Agency are transferred to the National Imagery and Mapping Agency:

(1) The National Photographic Interpretation Center.

(2) Other elements of the Central Intelligence Agency as specified in the classified annex to this Act.

(d) PRESERVATION OF LEVEL AND QUALITY OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION.—In managing the establishment of the National Imagery and Mapping Agency, the Secretary of Defense, in consultation with the Director of Central Intelligence, shall ensure that imagery intelligence support provided to all-source analysis and production is in no way degraded or compromised.

### SEC. 1112. MISSIONS AND AUTHORITY.

(a) AGENCY CHARTER.—Part I of subtitle A of title 10, United States Code, is amended—



- (1) by redesignating chapter 22 as chapter 23; and  
 (2) by inserting after chapter 21 the following new chapter 22:

**“CHAPTER 22—NATIONAL IMAGERY AND MAPPING  
AGENCY**

“Subchapter	Sec.
“I. Missions and Authority .....	441
“II. Maps, Charts, and Geodetic Products .....	451
“III. Personnel Management .....	461
“IV. Definitions .....	467

**“SUBCHAPTER I—MISSIONS AND AUTHORITY**

- “Sec.  
 “441. Establishment.  
 “442. Missions.  
 “443. Imagery intelligence and geospatial information: support for foreign countries.  
 “444. Support from Central Intelligence Agency.  
 “445. Protection of agency identifications and organizational information.

**“§ 441. Establishment**

“(a) ESTABLISHMENT.—The National Imagery and Mapping Agency is a combat support agency of the Department of Defense and has significant national missions.

“(b) DIRECTOR.—(1) The Director of the National Imagery and Mapping Agency is the head of the agency.

“(2) Upon a vacancy in the position of Director, the Secretary of Defense shall recommend to the President an individual for appointment to the position.

“(3) If an officer of the armed forces on active duty is appointed to the position of Director, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of this title and shall carry the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

“(c) DIRECTOR OF CENTRAL INTELLIGENCE COLLECTION TASKING AUTHORITY.—Unless otherwise directed by the President, the Director of Central Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to—

“(1) approve collection requirements levied on national imagery collection assets;

“(2) determine priorities for such requirements; and

“(3) resolve conflicts in such priorities.

“(d) AVAILABILITY AND CONTINUED IMPROVEMENT OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION FUNCTION.—The Secretary of Defense, in consultation with the Director of Central Intelligence, shall take all necessary steps to ensure the full availability and continued improvement of imagery intelligence support for all-source analysis and production.

**“§ 442. Missions**

“(a) NATIONAL SECURITY MISSIONS.—(1) The National Imagery and Mapping Agency shall, in support of the national security objectives of the United States, provide the following:

“(A) Imagery.

“(B) Imagery intelligence.

“(C) Geospatial information.

“(2) Imagery, intelligence, and information provided in carrying out paragraph (1) shall be timely, relevant, and accurate.

“(b) NAVIGATION INFORMATION.—The National Imagery and Mapping Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally.

“(c) MAPS, CHARTS, ETC.—The National Imagery and Mapping Agency shall prepare and distribute maps, charts, books, and geodetic products as authorized under subchapter II of this chapter.

“(d) NATIONAL MISSIONS.—The National Imagery and Mapping Agency also has national missions as specified in section 120(a) of the National Security Act of 1947.

“(e) SYSTEMS.—The National Imagery and Mapping Agency may, in furtherance of a mission of the Agency, design, develop, deploy, operate, and maintain systems related to the processing and dissemination of imagery intelligence and geospatial information that may be transferred to, accepted or used by, or used on behalf of—

“(1) the armed forces, including any combatant command, component of a combatant command, joint task force, or tactical unit; or

“(2) any other department or agency of the United States.

**“§ 443. Imagery intelligence and geospatial information: support for foreign countries**

“(a) USE OF APPROPRIATED FUNDS.—The Director of the National Imagery and Mapping Agency may use appropriated funds available to the National Imagery and Mapping Agency to provide foreign countries with imagery intelligence and geospatial information support.

“(b) USE OF FUNDS OTHER THAN APPROPRIATED FUNDS.—The Director may use funds other than appropriated funds to provide foreign countries with imagery intelligence and geospatial information support, notwithstanding provisions of law relating to the expenditure of funds of the United States, except that—

“(1) no such funds may be expended, in whole or in part, by or for the benefit of the National Imagery and Mapping Agency for a purpose for which Congress had previously denied funds.

“(2) proceeds from the sale of imagery intelligence or geospatial information items may be used only to purchase replacement items similar to the items that are sold; and

“(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

“(c) ACCOMMODATION PROCUREMENTS.—The authority under this section may be exercised to conduct accommodation procurements on behalf of foreign countries.

“(d) COORDINATION WITH DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of the Agency shall coordinate with the Director of Central Intelligence any action under this section that involves imagery intelligence or intelligence products or involves providing support to an intelligence or security service of a foreign country.

**“§ 444. Support from Central Intelligence Agency**

“(a) SUPPORT AUTHORIZED.—The Director of Central Intelligence may provide support in accordance with this section to the Director of the National Imagery and Mapping Agency. The Director of the National Imagery and Mapping Agency may accept support provided under this section.

“(b) ADMINISTRATIVE AND CONTRACT SERVICES.—(1) In furtherance of the national intelligence effort, the Director of Central Intelligence may provide administrative and contract services to the National Imagery and Mapping Agency as if that agency were an organizational element of the Central Intelligence Agency.

“(2) Services provided under paragraph (1) may include the services of security police. For purposes of section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o), an installation of the National Imagery and Mapping Agency that is provided security police services under this section shall be considered an installation of the Central Intelligence Agency.

“(3) Support provided under this subsection shall be provided under terms and conditions agreed upon by the Secretary of Defense and the Director of Central Intelligence.

“(c) DETAIL OF PERSONNEL.—The Director of Central Intelligence may detail personnel of the Central Intelligence Agency indefinitely to the National Imagery and Mapping Agency without regard to any limitation on the duration of interagency details of Federal Government personnel.

“(d) REIMBURSABLE OR NONREIMBURSABLE SUPPORT.—Support under this section may be provided and accepted on either a reimbursable basis or a nonreimbursable basis.

“(e) AUTHORITY TO TRANSFER FUNDS.—(1) The Director of the National Imagery and Mapping Agency may transfer funds available for that agency to the Director of Central Intelligence for the Central Intelligence Agency.

“(2) The Director of Central Intelligence—

“(A) may accept funds transferred under paragraph (1); and

“(B) shall expend such funds, in accordance with the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), to provide administrative and contract services or detail personnel to the National Imagery and Mapping Agency under this section.

**“§ 445. Protection of agency identifications and organizational information**

“(a) UNAUTHORIZED USE OF AGENCY NAME, INITIALS, OR SEAL.—(1) Except with the written permission of the Secretary of Defense, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense, any of the following:

“(A) The words ‘National Imagery and Mapping Agency’, the initials ‘NIMA’, or the seal of the National Imagery and Mapping Agency.

“(B) The words ‘Defense Mapping Agency’, the initials ‘DMA’, or the seal of the Defense Mapping Agency.

“(C) Any colorable imitation of such words, initials, or seals.

“(2) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by paragraph (1), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to a hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

#### “SUBCHAPTER II—MAPS, CHARTS, AND GEODETIC PRODUCTS

“Sec.

“451. Maps, charts, and books.

“452. Pilot charts.

“453. Prices of maps, charts, and navigational publications.

“454. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations.

“455. Maps, charts, and geodetic data: public availability; exceptions.

“456. Civil actions barred.

#### “SUBCHAPTER III—PERSONNEL MANAGEMENT

“Sec.

“461. Management rights.

#### “§ 461. Management rights

“(a) SCOPE.—If there is no obligation under the provisions of chapter 71 of title 5 for the head of an agency of the United States to consult or negotiate with a labor organization on a particular matter by reason of that matter being covered by a provision of law or a Governmentwide regulation, the Director of the National Imagery and Mapping Agency is not obligated to consult or negotiate with a labor organization on that matter even if that provision of law or regulation is inapplicable to the National Imagery and Mapping Agency.

“(b) BARGAINING UNITS.—The National Imagery and Mapping Agency shall accord exclusive recognition to a labor organization under section 7111 of title 5 only for a bargaining unit that was recognized as appropriate for the Defense Mapping Agency on the day before the date on which employees and positions of the Defense Mapping Agency in that bargaining unit became employees and positions of the National Imagery and Mapping Agency under the National Imagery and Mapping Agency Act of 1996 (title XI of the National Defense Authorization Act for Fiscal Year 1997).

“(c) TERMINATION OF BARGAINING UNIT COVERAGE OF POSITION MODIFIED TO AFFECT NATIONAL SECURITY DIRECTLY.—(1) If the Director of the National Imagery and Mapping Agency determines that the responsibilities of a position within a collective bargaining unit should be modified to include intelligence, counterintelligence, investigative, or security duties not previously assigned to that position and that the performance of the newly assigned duties directly affects the national security of the United States, then, upon such a modification of the responsibilities of that position, the position shall cease to be covered by the collective bargaining unit and the employee in that position shall cease to be entitled

to representation by a labor organization accorded exclusive recognition for that collective bargaining unit.

“(2) A determination described in paragraph (1) that is made by the Director of the National Imagery and Mapping Agency may not be reviewed by the Federal Labor Relations Authority or any court of the United States.

#### “SUBCHAPTER IV—DEFINITIONS

“Sec.

“467. Definitions.

#### “§ 467. Definitions

“In this chapter:

“(1) The term ‘function’ means any duty, obligation, responsibility, privilege, activity, or program.

“(2)(A) The term ‘imagery’ means, except as provided in subparagraph (B), a likeness or presentation of any natural or manmade feature or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including—

“(i) products produced by space-based national intelligence reconnaissance systems; and

“(ii) likenesses or presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means.

“(B) Such term does not include handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

“(3) The term ‘imagery intelligence’ means the technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.

“(4) The term ‘geospatial information’ means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth and includes—

“(A) statistical data and information derived from, among other things, remote sensing, mapping, and surveying technologies;

“(B) mapping, charting, and geodetic data; and

“(C) geodetic products, as defined in section 455(c) of this title.”.

(b) TRANSFER OF DEFENSE MAPPING AGENCY PROVISIONS.—(1) Sections 2792, 2793, 2794, 2795, 2796, and 2798 of title 10, United States Code, are transferred to subchapter II of chapter 22 of such title, as added by subsection (a), inserted in that sequence in such subchapter following the table of sections, and redesignated in accordance with the following table:

Section transferred	Section as redesignated
2792 .....	451
2793 .....	452
2794 .....	453
2795 .....	454
2796 .....	455
2798 .....	456.

(2) Sections 451(1), 452, 453, 454, and 455 (in subsections (a) and (b)(1)(C)), and 456 of title 10, United States Code, as

transferred and redesignated by paragraph (1), are amended by striking out “Defense Mapping Agency” each place it appears and inserting in lieu thereof “National Imagery and Mapping Agency”.

(c) OVERSIGHT OF AGENCY AS A COMBAT SUPPORT AGENCY.—Section 193 of title 10, United States Code, is amended—

(1) in subsection (d)—

(A) by striking out the caption and inserting in lieu thereof “REVIEW OF NATIONAL SECURITY AGENCY AND NATIONAL IMAGERY AND MAPPING AGENCY.—”;

(B) in paragraph (1)—

(i) by inserting “and the National Imagery and Mapping Agency” after “the National Security Agency”; and

(ii) by striking out “the Agency” and inserting in lieu thereof “that the agencies”; and

(C) in paragraph (2), by inserting “and the National Imagery and Mapping Agency” after “the National Security Agency”;

(2) in subsection (e)—

(A) by striking out “DIA AND NSA” in the caption and inserting in lieu thereof the following: “DIA, NSA, AND NIMA”; and

(B) by striking out “and the National Security Agency” and inserting in lieu thereof “, the National Security Agency, and the National Imagery and Mapping Agency”; and

(3) in subsection (f), by striking out paragraph (4) and inserting in lieu thereof the following:

“(4) The National Imagery and Mapping Agency.”.

(d) CONSOLIDATION AND STANDARDIZATION OF EXEMPTIONS FROM DISCLOSURE OF ORGANIZATIONAL AND PERSONNEL INFORMATION.—Chapter 21 of title 10, United States Code, is amended by striking out sections 424 and 425 and inserting in lieu thereof the following:

**“§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency**

“(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (c), no provision of law shall be construed to require the disclosure of—

“(1) the organization or any function of an organization of the Department of Defense named in subsection (b); or

“(2) the number of persons employed by or assigned or detailed to any such organization or the name, official title, occupational series, grade, or salary of any such person.

“(b) COVERED ORGANIZATIONS.—This section applies to the following organizations of the Department of Defense:

“(1) The Defense Intelligence Agency.

“(2) The National Reconnaissance Office.

“(3) The National Imagery and Mapping Agency.

“(c) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.”.

(e) SPECIAL PRINTING AUTHORITY FOR AGENCY.—(1) Section 207(a)(2)(B) of the Legislative Branch Appropriations Act, 1993

(Public Law 102-392; 44 U.S.C. 501 note), is amended by inserting “National Imagery and Mapping Agency,” after “Defense Intelligence Agency,”.

(2) Section 1336 of title 44, United States Code, is amended—

(A) by striking out “Secretary of the Navy” and inserting in lieu thereof “Director of the National Imagery and Mapping Agency”; and

(B) by striking out “United States Naval Oceanographic Office” and inserting in lieu thereof “National Imagery and Mapping Agency”.

10 USC 441 note.

**SEC. 1113. TRANSFERS OF PERSONNEL AND ASSETS.**

(a) **PERSONNEL AND ASSETS.**—Subject to subsections (b) and (c), the personnel, assets, unobligated balances of appropriations and authorizations of appropriations, and, to the extent jointly determined appropriate by the Secretary of Defense and Director of Central Intelligence, obligated balances of appropriations and authorizations of appropriations employed, used, held, arising from, or available in connection with the missions and functions transferred under section 1111(b) or section 1111(c) are transferred to the National Imagery and Mapping Agency. Transfers of appropriations from the Central Intelligence Agency under this subsection shall be made in accordance with section 1531 of title 31, United States Code.

(b) **DETERMINATION OF CIA POSITIONS TO BE TRANSFERRED.**—Not earlier than two years after the effective date of this subtitle, the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.

(c) **RULE FOR CIA IMAGERY ACTIVITIES ONLY PARTIALLY TRANSFERRED.**—If the National Photographic Interpretation Center of the Central Intelligence Agency or any imagery-related activity of the Central Intelligence Agency authorized to be performed by the National Imagery and Mapping Agency is not completely transferred to the National Imagery and Mapping Agency, the Secretary of Defense and the Director of Central Intelligence shall—

(1) jointly determine which, if any, contracts, leases, property, and records employed, used, held, arising from, available to, or otherwise relating to such Center or activity is to be transferred to the National Imagery and Mapping Agency; and

(2) provide by written agreement for the transfer of such items.

**SEC. 1114. COMPATIBILITY WITH AUTHORITY UNDER THE NATIONAL SECURITY ACT OF 1947.**

(a) **AGENCY FUNCTIONS.**—Paragraph (2) of section 105(b) of the National Security Act of 1947 (50 U.S.C. 403-5(b)) is amended to read as follows:

“(2) through the National Imagery and Mapping Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the

intelligence community, the continued operation of an effective unified organization within the Department of Defense—

“(A) for carrying out tasking of imagery collection;

“(B) for the coordination of imagery processing and exploitation activities;

“(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

“(D) notwithstanding any other provision of law, for—

“(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

“(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information.”.

(b) NATIONAL MISSION.—Title I of such Act (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

“NATIONAL MISSION OF NATIONAL IMAGERY AND MAPPING AGENCY

“SEC. 120. (a) IN GENERAL.—In addition to the Department of Defense missions set forth in section 442 of title 10, United States Code, the National Imagery and Mapping Agency shall support the imagery requirements of the Department of State and other departments and agencies of the United States outside the Department of Defense.

50 USC 404e.

“(b) REQUIREMENTS AND PRIORITIES.—The Director of Central Intelligence shall establish requirements and priorities governing the collection of national intelligence by the National Imagery and Mapping Agency under subsection (a).

“(c) CORRECTION OF DEFICIENCIES.—The Director of Central Intelligence shall develop and implement such programs and policies as the Director and the Secretary of Defense jointly determine necessary to review and correct deficiencies identified in the capabilities of the National Imagery and Mapping Agency to accomplish assigned national missions, including support to the all-source analysis and production process. The Director shall consult with the Secretary of Defense on the development and implementation of such programs and policies. The Secretary shall obtain the advice of the Chairman of the Joint Chiefs of Staff regarding the matters on which the Director and the Secretary are to consult under the preceding sentence.”.

(c) TASKING OF IMAGERY ASSETS.—Title I of such Act is further amended by adding at the end the following new section:

“COLLECTION TASKING AUTHORITY

“SEC. 121. Unless otherwise directed by the President, the Director of Central Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to—

50 USC 404f.

“(1) approve collection requirements levied on national imagery collection assets;

“(2) determine priorities for such requirements; and

“(3) resolve conflicts in such priorities.”.



(d) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 109 the following new items:

“Sec. 120. National mission of National Imagery and Mapping Agency.

“Sec. 121. Collection tasking authority.”.

10 USC 441 note. **SEC. 1115. CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF THE DEFENSE MAPPING AGENCY.**

In the case of an employee of the National Imagery and Mapping Agency who, on the day before the effective date of this title, was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee.

10 USC 441 note. **SEC. 1116. SAVING PROVISIONS.**

(a) CONTINUING EFFECT ON LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this title or any function that the National Imagery and Mapping Agency is authorized to perform by law, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This title and the amendments made by this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this title takes effect, with respect to function of that element transferred by section 1122, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

10 USC 441 note. **SEC. 1117. DEFINITIONS.**

In this subtitle, the terms “function”, “imagery”, “imagery intelligence”, and “geospatial information” have the meanings given

those terms in section 467 of title 10, United States Code, as added by section 1112.

#### SEC. 1118. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for the National Imagery and Mapping Agency for fiscal year 1997 in amounts and for purposes, and subject to the terms, conditions, limitations, restrictions, and requirements, that are set forth in the Classified Annex to this Act.

## Subtitle B—Conforming Amendments and Effective Dates

#### SEC. 1121. REDESIGNATION AND REPEALS.

(a) REDESIGNATION.—Chapter 23 of title 10, United States Code (as redesignated by section 1112(a)(1)) is amended by redesignating the sections in that chapter as sections 481 and 482, respectively.

(b) REPEAL OF SUPERSEDED LAW.—Chapter 167 of such title, as amended by section 1112(b), is repealed.

#### SEC. 1122. REFERENCE AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) CENTRAL IMAGERY OFFICE.—Sections 2302(a)(2)(C)(ii), 3132(a)(1)(B), 4301(1) (in clause (ii)), 4701(a)(1)(B), 5102(a)(1) (in clause (xi)), 5342(a)(1)(L), 6339(a)(1)(E), and 7323(b)(2)(B)(i)(XIII) are amended by striking out “Central Imagery Office” and inserting in lieu thereof “National Imagery and Mapping Agency”.

(2) DIRECTOR, CENTRAL IMAGERY OFFICE.—Section 6339(a)(2)(E) is amended by striking out “Central Imagery Office, the Director of the Central Imagery Office” and inserting in lieu thereof “National Imagery and Mapping Agency, the Director of the National Imagery and Mapping Agency”.

(b) OTHER LAWS.—The following provisions of law are amended by striking out “Central Imagery Office” and inserting in lieu thereof “National Imagery and Mapping Agency”:

(1) NATIONAL SECURITY ACT OF 1947.—Section 3(4)(E) of the National Security Act of 1947 (50 U.S.C. 401a(4)(E)).

(2) ETHICS IN GOVERNMENT ACT OF 1978.—Section 105(a) of the Ethics in Government Act of 1978 (Public Law 95-521; 5 U.S.C. App. 4).

(3) EMPLOYEE POLYGRAPH PROTECTION ACT.—Section 7(b)(2)(A)(i) of the Employee Polygraph Protection Act of 1988 (Public Law 100-347; 29 U.S.C. 2006(b)(2)(A)(i)).

(c) CROSS REFERENCE.—Section 82 of title 14, United States Code, is amended by striking out “chapter 167” and inserting in lieu thereof “subchapter II of chapter 22”.

5 USC app. 105.

#### SEC. 1123. HEADINGS AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—

(1) The table of chapters at the beginning of subtitle A of title 10, United States Code, is amended—

(A) by striking out the item relating to chapter 22 and inserting in lieu thereof the following:

(d) **CLERICAL AMENDMENT.**—The table of contents in the first section of such Act is amended by inserting after the item relating to section 109 the following new items:

“Sec. 120. National mission of National Imagery and Mapping Agency.

“Sec. 121. Collection tasking authority.”.

10 USC 441 note. **SEC. 1115. CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF THE DEFENSE MAPPING AGENCY.**

In the case of an employee of the National Imagery and Mapping Agency who, on the day before the effective date of this title, was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee.

10 USC 441 note. **SEC. 1116. SAVING PROVISIONS.**

(a) **CONTINUING EFFECT ON LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this title or any function that the National Imagery and Mapping Agency is authorized to perform by law, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PROCEEDINGS NOT AFFECTED.**—This title and the amendments made by this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this title takes effect, with respect to function of that element transferred by section 1122, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

10 USC 441 note. **SEC. 1117. DEFINITIONS.**

In this subtitle, the terms “function”, “imagery”, “imagery intelligence”, and “geospatial information” have the meanings given

"22. National Imagery and Mapping Agency .....	441
"23. Miscellaneous Studies and Reports .....	471";

and

(B) by striking out the item relating to chapter 167.

(2) The table of chapters at the beginning of part I of such subtitle is amended by striking out the item relating to chapter 22 and inserting in lieu thereof the following:

"22. National Imagery and Mapping Agency .....	441
"23. Miscellaneous Studies and Reports .....	471";

(3) The table of chapters at the beginning of part IV of such subtitle is amended by striking out the item relating to chapter 167.

(4) The items in the table of sections at the beginning of chapter 23 of title 10, United States Code (as redesignated by section 1112(a)(1)), are revised so as to reflect the redesignations made by section 1121(a).

(b) TITLE 44, UNITED STATES CODE.—

(1) The heading of section 1336 of title 44, United States Code, is amended to read as follows:

**"§ 1336. National Imagery and Mapping Agency: special publications".**

(2) The item relating to that section in the tables of sections at the beginning of chapter 13 of such title is amended to read as follows:

"1336. National Imagery and Mapping Agency: special publications.".

10 USC 193 note.

**SEC. 1124. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on October 1, 1996, or the date of the enactment of this Act, whichever is later.

Reserve Forces  
Revitalization  
Act of 1996.

## TITLE XII—RESERVE FORCES REVITALIZATION

### TITLE XII—RESERVE FORCES REVITALIZATION

Sec. 1201. Short title.

Sec. 1202. Purpose.

#### Subtitle A—Reserve Component Structure

Sec. 1211. Reserve component commands.

Sec. 1212. Reserve component chiefs.

Sec. 1213. Review of active duty and Reserve general and flag officer authorizations.

Sec. 1214. Guard and Reserve technicians.

#### Subtitle B—Reserve Component Accessibility

Sec. 1231. Report to Congress on measures to improve National Guard and Reserve ability to respond to emergencies.

Sec. 1232. Report to Congress concerning tax incentives for employers of members of Reserve components.

Sec. 1233. Report to Congress concerning income insurance program for activated Reservists.

Sec. 1234. Report to Congress concerning small business loans for members released from Reserve service during contingency operations.

#### Subtitle C—Reserve Forces Sustainment

Sec. 1251. Report concerning tax deductibility of nonreimbursable expenses.

Sec. 1252. Authority to pay transient housing charges for members performing active duty for training.

- Sec. 1253. Sense of Congress concerning quarters allowance during service on active duty for training.  
 Sec. 1254. Sense of Congress concerning military leave policy.  
 Sec. 1255. Reserve Forces Policy Board.  
 Sec. 1256. Report on parity of benefits for active duty service and Reserve service.  
 Sec. 1257. Information on proposed funding for the Guard and Reserve components in future-years defense programs.

**SEC. 1201. SHORT TITLE.**

This title may be cited as the "Reserve Forces Revitalization Act of 1996".

10 USC 10001  
note.

**SEC. 1202. PURPOSE.**

The purpose of this title is to revise the basic statutory authorities governing the organization and administration of the reserve components of the Armed Forces in order to recognize the realities of reserve component partnership in the Total Force and to better prepare the American citizen-soldier, sailor, airman, and Marine in time of peace for duties in war.

10 USC 10001  
note.

## Subtitle A—Reserve Component Structure

**SEC. 1211. RESERVE COMPONENT COMMANDS.**

(a) **ESTABLISHMENT.**—(1) Part I of subtitle E of title 10, United States Code, is amended by inserting after chapter 1005 the following new chapter:

### "CHAPTER 1006—RESERVE COMPONENT COMMANDS

- "Sec.  
 "10171. United States Army Reserve Command.  
 "10172. Naval Reserve Force.  
 "10173. Marine Forces Reserve.  
 "10174. Air Force Reserve Command.

#### "§ 10171. United States Army Reserve Command

"(a) **COMMAND.**—The United States Army Reserve Command is a separate command of the Army commanded by the Chief of Army Reserve.

"(b) **CHAIN OF COMMAND.**—Except as otherwise prescribed by the Secretary of Defense, the Secretary of the Army shall prescribe the chain of command for the United States Army Reserve Command.

"(c) **ASSIGNMENT OF FORCES.**—The Secretary of the Army—  
 "(1) shall assign to the United States Army Reserve Command all forces of the Army Reserve in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

"(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Army specified in section 3013 of this title, shall assign all such forces of the Army Reserve to the commander of the United States Atlantic Command.

#### "§ 10172. Naval Reserve Force

"(a) **ESTABLISHMENT OF COMMAND.**—The Secretary of the Navy, with the advice and assistance of the Chief of Naval Operations, shall establish a Naval Reserve Force. The Naval Reserve Force shall be operated as a separate command of the Navy.

“(b) COMMANDER.—The Chief of Naval Reserve shall be the commander of the Naval Reserve Force. The commander of the Naval Reserve Force reports directly to the Chief of Naval Operations.

“(c) ASSIGNMENT OF FORCES.—The Secretary of the Navy—

“(1) shall assign to the Naval Reserve Force specified portions of the Naval Reserve other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

“(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Navy specified in section 5013 of this title, shall assign to the combatant commands all such forces assigned to the Naval Reserve Force under paragraph (1) in the manner specified by the Secretary of Defense.

#### “§ 10173. Marine Forces Reserve

“(a) ESTABLISHMENT.—The Secretary of the Navy, with the advice and assistance of the Commandant of the Marine Corps, shall establish in the Marine Corps a command known as the Marine Forces Reserve.

“(b) COMMANDER.—The Marine Forces Reserve is commanded by the Commander, Marine Forces Reserve. The Commander, Marine Forces Reserve, reports directly to the Commandant of the Marine Corps.

“(c) ASSIGNMENT OF FORCES.—The Commandant of the Marine Corps—

“(1) shall assign to the Marine Forces Reserve the forces of the Marine Corps Reserve stationed in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

“(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Navy specified in section 5013 of this title, shall assign to the combatant commands (through the Marine Corps component commander for each such command) all such forces assigned to the Marine Forces Reserve under paragraph (1) in the manner specified by the Secretary of Defense.

#### “§ 10174. Air Force Reserve Command

“(a) ESTABLISHMENT OF COMMAND.—The Secretary of the Air Force, with the advice and assistance of the Chief of Staff of the Air Force, shall establish an Air Force Reserve Command. The Air Force Reserve Command shall be operated as a separate command of the Air Force.

“(b) COMMANDER.—The Chief of Air Force Reserve is the Commander of the Air Force Reserve Command. The commander of the Air Force Reserve Command reports directly to the Chief of Staff of the Air Force.

“(c) ASSIGNMENT OF FORCES.—The Secretary of the Air Force—

“(1) shall assign to the Air Force Reserve Command all forces of the Air Force Reserve stationed in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

“(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Air Force specified in section 8013 of this title, shall assign to the combatant commands all such forces assigned to the Air Force Reserve Command under paragraph (1) in the manner specified by the Secretary of Defense.”.

(2) The tables of chapters at the beginning of part I of such subtitle and at the beginning of such subtitle are each amended by inserting after the item relating to chapter 1005 the following new item:

“1006. Reserve Component Commands .....10171”.

(b) CONFORMING REPEAL.—Section 903 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 3074 note) is repealed.

(c) IMPLEMENTATION SCHEDULE.—Implementation of chapter 1006 of title 10, United States Code, as added by subsection (a), shall begin not later than 90 days after the date of the enactment of this Act and shall be completed not later than one year after such date.

10 USC 10171  
note.

#### SEC. 1212. RESERVE COMPONENT CHIEFS.

(a) CHIEF OF ARMY RESERVE.—Section 3038 of title 10, United States Code, is amended by adding at the end the following new subsections:

“(d) BUDGET.—The Chief of Army Reserve is the official within the executive part of the Department of the Army who, subject to the authority, direction, and control of the Secretary of the Army and the Chief of Staff, is responsible for justification and execution of the personnel, operation and maintenance, and construction budgets for the Army Reserve. As such, the Chief of Army Reserve is the director and functional manager of appropriations made for the Army Reserve in those areas.

“(e) FULL TIME SUPPORT PROGRAM.—The Chief of Army Reserve manages, with respect to the Army Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

“(f) ANNUAL REPORT.—(1) The Chief of Army Reserve shall submit to the Secretary of Defense, through the Secretary of the Army, an annual report on the state of the Army Reserve and the ability of the Army Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Army and may be submitted in classified and unclassified versions.

“(2) The Secretary of Defense shall transmit the annual report of the Chief of Army Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.”.

(b) CHIEF OF NAVAL RESERVE.—(1) Chapter 513 of such title is amended by inserting after section 5142a the following new section:

#### “§ 5143. Office of Naval Reserve: appointment of Chief

“(a) ESTABLISHMENT OF OFFICE: CHIEF OF NAVAL RESERVE.—There is in the executive part of the Department of the Navy, on the staff of the Chief of Naval Operations, an Office of the

Naval Reserve, which is headed by a Chief of Naval Reserve.  
The Chief of Naval Reserve—

“(1) is the principal adviser on Naval Reserve matters to the Chief of Naval Operations; and

“(2) is the commander of the Naval Reserve Force.

President.

“(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Chief of Naval Reserve from officers who—

“(1) have had at least 10 years of commissioned service;

“(2) are in a grade above captain; and

“(3) have been recommended by the Secretary of the Navy.

“(c) GRADE.—(1) The Chief of Naval Reserve holds office for a term determined by the Chief of Naval Operations, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

“(2) The Chief of Naval Reserve, while so serving, has a grade above rear admiral (lower half), without vacating the officer's permanent grade.

“(d) BUDGET.—The Chief of Naval Reserve is the official within the executive part of the Department of the Navy who, subject to the authority, direction, and control of the Secretary of the Navy and the Chief of Naval Operations, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Naval Reserve. As such, the Chief of Naval Reserve is the director and functional manager of appropriations made for the Naval Reserve in those areas.

“(e) ANNUAL REPORT.—(1) The Chief of Naval Reserve shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Naval Reserve and the ability of the Naval Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Naval Operations and may be submitted in classified and unclassified versions.

“(2) The Secretary of Defense shall transmit the annual report of the Chief of Naval Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5142a the following new item:

“5143. Office of Naval Reserve: appointment of Chief.”

(c) CHIEF OF MARINE FORCES RESERVE.—(1) Chapter 513 of such title is amended by inserting after section 5143 (as added by subsection (b)) the following new section:

**“§ 5144. Office of Marine Forces Reserve: appointment of Commander**

“(a) ESTABLISHMENT OF OFFICE; COMMANDER, MARINE FORCES RESERVE.—There is in the executive part of the Department of the Navy an Office of the Marine Forces Reserve, which is headed by the Commander, Marine Forces Reserve. The Commander, Marine Forces Reserve, is the principal adviser to the Commandant on Marine Forces Reserve matters.



“(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from officers of the Marine Corps who— President.

“(1) have had at least 10 years of commissioned service;

“(2) are in a grade above colonel; and

“(3) have been recommended by the Secretary of the Navy.

“(c) TERM OF OFFICE; GRADE.—(1) The Commander, Marine Forces Reserve, holds office for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

“(2) The Commander, Marine Forces Reserve, while so serving, has a grade above brigadier general, without vacating the officer's permanent grade.

“(d) ANNUAL REPORT.—(1) The Commander, Marine Forces Reserve, shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Marine Corps Reserve and the ability of the Marine Corps Reserve to meet its missions. The report shall be prepared in conjunction with the Commandant of the Marine Corps and may be submitted in classified and unclassified versions.

“(2) The Secretary of Defense shall transmit the annual report of the Commander, Marine Forces Reserve, under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5143 (as added by subsection (b)) the following new item:

“5144. Office of Marine Forces Reserve: appointment of Commander.”

(d) CHIEF OF AIR FORCE RESERVE.—Section 8038 of such title is amended by adding at the end the following new subsections:

“(d) BUDGET.—The Chief of Air Force Reserve is the official within the executive part of the Department of the Air Force who, subject to the authority, direction, and control of the Secretary of the Air Force and the Chief of Staff, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Air Force Reserve. As such, the Chief of Air Force Reserve is the director and functional manager of appropriations made for the Air Force Reserve in those areas.

“(e) FULL TIME SUPPORT PROGRAM.—(1) The Chief of Air Force Reserve manages, with respect to the Air Force Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

“(f) ANNUAL REPORT.—(1) The Chief of Air Force Reserve shall submit to the Secretary of Defense, through the Secretary of the Air Force, an annual report on the state of the Air Force Reserve and the ability of the Air Force Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Air Force and may be submitted in classified and unclassified versions.

“(2) The Secretary of Defense shall transmit the annual report of the Chief of Air Force Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time

each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.”

(e) CONFORMING AMENDMENT.—Section 641(1)(B) of such title is amended by inserting “5143, 5144,” after “3038,”.

**SEC. 1213. REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND FLAG OFFICER AUTHORIZATIONS.**

(a) REPORT TO CONGRESS.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing any recommendations of the Secretary (together with the rationale of the Secretary for the recommendations) concerning the following:

(1) Revision of the limitations on general and flag officer grade authorizations and distribution in grade prescribed by sections 525, 526, and 12004 of title 10, United States Code.

(2) Statutory designation of the positions and grades of any additional general and flag officers in the commands and offices created by sections 1211 and 1212.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in the report under subsection (a) the Secretary's views on whether current limitations referred to in subsection (a)—

(1) permit the Secretaries of the military departments, in view of increased requirements for assignment of general and flag officers in positions external to their organic services, to meet adequately both internal and external requirements for general and flag officers;

(2) adequately recognize the significantly increased role of the reserve components in both service-specific and joint operations; and

(3) permit the Secretaries of the military departments and the reserve components to assign general and flag officers to active and reserve component positions with grades commensurate with the scope of duties and responsibilities of the position.

(c) EXEMPTIONS FROM ACTIVE-DUTY CEILINGS.—(1) The Secretary shall include in the report under subsection (a) the Secretary's recommendations regarding the merits of exempting from any active-duty ceiling (established by law or administrative action) the following officers:

(A) Reserve general and flag officers assigned to positions specified in the organizations created by this title.

(B) Reserve general and flag officers serving on active duty, but who are excluded from the active-duty list.

(2) If the Secretary determines under paragraph (1) that any Reserve general or flag officers should be exempt from active duty limits, the Secretary shall include in the report under subsection (a) the Secretary's recommendations for—

(A) the effective management of those Reserve general and flag officers; and

(B) revision of active duty ceilings so as to prevent an increase in the numbers of active general and flag officers authorizations due solely to the removal of Reserve general and flag officers from under the active duty authorizations.

(3) If the Secretary determines under paragraph (1) that active and reserve general officers on active duty should continue to be managed under a common ceiling, the Secretary shall make recommendations for the appropriate apportionment of numbers for general and flag officers among active and reserve officers.

(d) **RESERVE FORCES POLICY BOARD PARTICIPATION.**—The Secretary of Defense shall ensure that the Reserve Forces Policy Board participates in the internal Department of Defense process for development of the recommendations of the Secretary contained in the report under subsection (a). If the Board submits to the Secretary any comments or recommendations for inclusion in the report, the Secretary shall transmit them to Congress, with the report, in the same form as that in which they were submitted to the Secretary.

(e) **GAO REVIEW.**—The Comptroller General of the United States shall assess the criteria used by the Secretary of Defense to develop recommendations for purposes of the report under this section and shall submit to Congress, not later than 30 days after the date on which the report of the Secretary under this section is submitted, a report setting forth the Comptroller General's conclusions concerning the adequacy and completeness of the recommendations made by the Secretary in the report.

Reports.

#### **SEC. 1214. GUARD AND RESERVE TECHNICIANS.**

Section 10216 of title 10, United States Code, as amended by section 413, is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively;

(2) by inserting after the section heading the following new subsection (a):

“(a) **IN GENERAL.**—Military technicians are Federal civilian employees hired under title 5 and title 32 who are required to maintain dual-status as drilling reserve component members as a condition of their Federal civilian employment. Such employees shall be authorized and accounted for as a separate category of dual-status civilian employees, exempt as specified in subsection (b)(3) from any general or regulatory requirement for adjustments in Department of Defense civilian personnel.”; and

(3) in paragraph (3) of subsection (b), as redesignated by paragraph (1), by striking out “in high-priority units and organizations specified in paragraph (1)”.

## **Subtitle B—Reserve Component Accessibility**

#### **SEC. 1231. REPORT TO CONGRESS ON MEASURES TO IMPROVE NATIONAL GUARD AND RESERVE ABILITY TO RESPOND TO EMERGENCIES.**

(a) **REPORT.**—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report regarding reserve component responsiveness to both domestic emergencies and national contingency operations. The report shall set forth the measures taken, underway, and projected to be taken to improve the timeliness, adequacy, and effectiveness of reserve component responses to such emergencies and operations.

(b) **MATTERS RELATED TO RESPONSIVENESS TO DOMESTIC EMERGENCIES.**—The report shall address the following:

(1) The need to expand the time period set by section 12301(b) of title 10, United States Code, which permits the

involuntary recall at any time to active duty of units and individuals for up to 15 days per year.

(2) The recommendations of the 1995 report of the RAND Corporation entitled "Assessing the State and Federal Missions of the National Guard", as follows:

(A) That Federal law be clarified and amended to authorize Presidential use of the Federal reserves of all military services for domestic emergencies and disasters without any time constraint.

(B) That the Secretary of Defense develop and support establishment of an appropriate national level compact for interstate sharing of resources, including the domestic capabilities of the national guards of the States, during emergencies and disasters.

(C) That Federal level contingency stocks be created to support the National Guard in domestic disasters.

(D) That Federal funding and regulatory support be provided for Federal-State disaster emergency response planning exercises.

(c) **MATTERS RELATED TO PRESIDENTIAL RESERVE CALL-UP AUTHORITY.**—The report under this section shall specifically address matters related to the authority of the President to activate for service on active duty units and members of reserve components under sections 12301, 12302, and 12304 of title 10, United States Code, including—

(1) whether such authority is adequate to meet the full range of reserve component missions for the 21st century, particularly with regard to the time periods for which such units and members may be on active duty under those authorities and the ability to activate both units and individual members; and

(2) whether the three-tiered set of statutory authorities (under such sections 12301, 12302, and 12304) should be consolidated, modified, or in part eliminated in order to facilitate current and future use of Reserve units and individual reserve component members for a broader range of missions, and, if so, in what manner.

(d) **MATTERS RELATED TO RELEASE FROM ACTIVE DUTY.**—The report under this section shall include findings and recommendations (based upon a review of current policies and procedures) concerning procedures for release from active duty of units and members of reserve components who have been involuntarily called or ordered to active duty under section 12301, 12302, or 12304 of title 10, United States Code, with specific recommendations concerning the desirability of statutory provisions to—

(1) establish specific guidelines for when it is appropriate (or inappropriate) to retain on active duty such reserve component units when active component units are available to perform the mission being performed by the reserve component unit;

(2) minimize the effects of frequent mobilization of the civilian employers, as well as the effects of frequent mobilization on recruiting and retention in the reserve components; and

(3) address other matters relating to the needs of such members of reserve components, their employers, and (in the case of such members who own businesses) their employees, while such members are on active duty.

(e) **RESERVE FORCES POLICY BOARD PARTICIPATION.**—The Secretary of Defense shall ensure that the Reserve Forces Policy Board participates in the internal Department of Defense process for development of the recommendations of the Secretary contained in the report under subsection (a). If the Board submits to the Secretary any comments or recommendations for inclusion in the report, the Secretary shall transmit them to Congress, with the report, in the same form as that in which they were submitted to the Secretary.

(f) **GAO REVIEW.**—The Comptroller General of the United States shall assess the criteria used by the Secretary of Defense to develop recommendations for purposes of the report under this section and shall submit to Congress, not later than 30 days after the date on which the report of the Secretary under this section is submitted, a report setting forth the Comptroller General's conclusions concerning the adequacy and completeness of the recommendations made by the Secretary in the report. Reports.

**SEC. 1232. REPORT TO CONGRESS CONCERNING TAX INCENTIVES FOR EMPLOYERS OF MEMBERS OF RESERVE COMPONENTS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth a draft of legislation to provide tax incentives to employers of members of reserve components in order to compensate employers for absences of those employees due to required training and for absences due to performance of active duty.

**SEC. 1233. REPORT TO CONGRESS CONCERNING INCOME INSURANCE PROGRAM FOR ACTIVATED RESERVISTS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth legislative recommendations for changes to chapter 1214 of title 10, United States Code. Such recommendations shall in particular provide, in the case of a mobilized member who owns a business, income replacement for that business and for employees of that member or business who have a loss of income during the period of such activation attributable to the activation of the member.

**SEC. 1234. REPORT TO CONGRESS CONCERNING SMALL BUSINESS LOANS FOR MEMBERS RELEASED FROM RESERVE SERVICE DURING CONTINGENCY OPERATIONS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth a draft of legislation to establish a small business loan program to provide members of reserve components who are ordered to active duty or active Federal service (other than for training) during a contingency operation (as defined in section 101 of title 10, United States Code) low-cost loans to assist those members in retaining or rebuilding businesses that were affected by their service on active duty or in active Federal service.

## Subtitle C—Reserve Forces Sustainment

### SEC. 1251. REPORT CONCERNING TAX DEDUCTIBILITY OF NON-REIMBURSABLE EXPENSES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth a draft of legislation to restore the tax deductibility of nonreimbursable expenses incurred by members of reserve components in connection with military service.

### SEC. 1252. AUTHORITY TO PAY TRANSIENT HOUSING CHARGES FOR MEMBERS PERFORMING ACTIVE DUTY FOR TRAINING.

Section 404(j)(1) of title 37, United States Code, is amended by striking out “annual training duty” and inserting in lieu thereof “active duty for training”.

### SEC. 1253. SENSE OF CONGRESS CONCERNING QUARTERS ALLOWANCE DURING SERVICE ON ACTIVE DUTY FOR TRAINING.

It is the sense of Congress that the United States should continue to pay members of reserve components appropriate quarters allowances during periods of service on active duty for training.

### SEC. 1254. SENSE OF CONGRESS CONCERNING MILITARY LEAVE POLICY.

It is the sense of Congress that military leave policies in effect as of the date of the enactment of this Act with respect to members of the reserve components should not be changed.

### SEC. 1255. RESERVE FORCES POLICY BOARD.

(a) COMMENDATION.—The Congress commends the Reserve Forces Policy Board, created by the Armed Forces Reserve Act of 1952 (Public Law 82-476), for its fine work in the past as an independent source of advice to the Secretary of Defense on all matters pertaining to the reserve components.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Reserve Forces Policy Board and the reserve forces policy committees for the individual branches of the Armed Forces should continue to perform the vital role of providing the civilian leadership of the Department of Defense with independent advice on matters pertaining to the reserve components.

(c) ANNUAL REPORT OF RESERVE FORCES POLICY BOARD.—Section 113(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (1), (2), and (4) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting “(1)” after “(c)”;

(4) by inserting “and” at the end of subparagraph (B), as redesignated by paragraph (2); and

(5) by adding at the end the following:

“(2) At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense and on any other matters that the Reserve Forces Policy Board considers appropriate to include in the report.”.

**SEC. 1256. REPORT ON PARITY OF BENEFITS FOR ACTIVE DUTY SERVICE AND RESERVE SERVICE.**

No later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report providing recommendations for changes in law that the Secretary considers necessary, feasible, and affordable to reduce the disparities in pay and benefits that occur between active component members of the Armed Forces and reserve component members as a result of eligibility based on length of time on active duty.

**SEC. 1257. INFORMATION ON PROPOSED FUNDING FOR THE GUARD AND RESERVE COMPONENTS IN FUTURE-YEARS DEFENSE PROGRAMS.**

(a) **IN GENERAL.**—(1) Chapter 1013 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 10543. National Guard and reserve component equipment procurement and military construction funding: inclusion in future-years defense program**

“The Secretary of Defense shall specify in each future-years defense program submitted to Congress under section 221 of this title the estimated expenditures and the proposed appropriations, for each fiscal year of the period covered by that program, for the procurement of equipment and for military construction for each of the reserve components of the armed forces.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“10543. National Guard and reserve component equipment procurement and military construction funding: inclusion in future-years defense program.”

(b) **EFFECTIVE DATE.**—Section 10543 of title 10, United States Code, as added by subsection (a), shall apply with respect to each future-years defense program submitted to Congress after the date of the enactment of this Act.

Applicability.  
10 USC 10543  
note.

## **TITLE XIII—ARMS CONTROL AND RELATED MATTERS**

### **Subtitle A—Arms Control, Counterproliferation Activities, and Related Matters**

- Sec. 1301. Extension of counterproliferation authorities.
- Sec. 1302. Limitation on retirement or dismantlement of strategic nuclear delivery systems.
- Sec. 1303. Strengthening certain sanctions against nuclear proliferation activities.
- Sec. 1304. Authority to pay certain expenses relating to humanitarian and civic assistance for clearance of landmines.
- Sec. 1305. Report on military capabilities of People's Republic of China.
- Sec. 1306. Presidential report regarding weapons proliferation and policies of the People's Republic of China.
- Sec. 1307. United States-People's Republic of China Joint Defense Conversion Commission.
- Sec. 1308. Sense of Congress concerning export controls.
- Sec. 1309. Counterproliferation Program Review Committee.
- Sec. 1310. Sense of Congress concerning assisting other countries to improve security of fissile material.
- Sec. 1311. Review by Director of Central Intelligence of National Intelligence Estimate 95-19.

### **Subtitle B—Commission to Assess the Ballistic Missile Threat to the United States**

- Sec. 1321. Establishment of Commission.

- Sec. 1322. Duties of Commission.
- Sec. 1323. Report.
- Sec. 1324. Powers.
- Sec. 1325. Commission procedures.
- Sec. 1326. Personnel matters.
- Sec. 1327. Miscellaneous administrative provisions.
- Sec. 1328. Funding.
- Sec. 1329. Termination of the Commission.

## **Subtitle A—Arms Control, Counterproliferation Activities, and Related Matters**

### **SEC. 1301. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES.**

(a) **ONE-YEAR EXTENSION OF AUTHORITY.**—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102-484; 22 U.S.C. 5859a) is amended—

(1) in subsection (d)(3), by striking out “or” after “fiscal year 1995,” and by inserting “, or \$15,000,000 for fiscal year 1997” before the period at the end; and

(2) in subsection (f), by striking out “1996” and inserting in lieu thereof “1997”.

(b) **FUNDING FLEXIBILITY.**—Subsection (d) of such section is further amended by adding at the end the following new paragraph:

“(4)(A) In the event of a significant unforeseen development related to the activities of the United Nations Special Commission on Iraq for which the Secretary of Defense determines that financial assistance under this section is required at a level which would result in the total amount of assistance provided under this section during the then-current fiscal year exceeding the amount specified with respect to that year under paragraph (3), the Secretary of Defense may provide such assistance notwithstanding the limitation with respect to that fiscal year under paragraph (3). Funds for such purpose may be derived from any funds available to the Department of Defense for that fiscal year.

“(B) Financial assistance may be provided under subparagraph (A) only after the Secretary of Defense provides notice in writing to the committees of Congress named in subsection (e)(2) of the significant unforeseen development and of the Secretary’s intent to provide assistance in excess of the limitation for that fiscal year under paragraph (3). However, if the Secretary determines in any case that under the specific circumstances of that case advance notice is not possible, such notice shall be provided as soon as possible and not later than 15 days after the date on which the assistance is provided. Any notice under this subparagraph shall include a description of the development, the amount of assistance provided or to be provided, and the source of the funds for that assistance.”.

### **SEC. 1302. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

(a) **FUNDING LIMITATION.**—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1997 for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems:

- (1) B-52H bomber aircraft.
- (2) Trident ballistic missile submarines.



(3) Minuteman III intercontinental ballistic missiles.

(4) Peacekeeper intercontinental ballistic missiles.

(b) **WAIVER AUTHORITY.**—If the START II Treaty enters into force during fiscal year 1996 or fiscal year 1997, the Secretary of Defense may waive the application of the limitation under paragraphs (2), (3), and (4) of subsection (a) to Trident ballistic missile submarines, Minuteman III intercontinental ballistic missiles, and Peacekeeper intercontinental ballistic missiles, respectively, to the extent that the Secretary determines necessary in order to implement the treaty.

(c) **FUNDING LIMITATION ON EARLY DEACTIVATION.**—(1) If the limitation under paragraphs (2), (3), and (4) of subsection (a) ceases to apply by reason of a waiver under subsection (b), funds available to the Department of Defense may nevertheless not be obligated or expended during fiscal year 1997 to implement any agreement or understanding to undertake substantial early deactivation of a strategic nuclear delivery system specified in subsection (b) until 30 days after the date on which the President submits to Congress a report concerning such actions.

President.  
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(2) For purposes of this subsection, a substantial early deactivation is an action during fiscal year 1997 to deactivate a substantial number of strategic nuclear delivery systems specified in subsection (b) by—

(A) removing nuclear warheads from those systems; or

(B) taking other steps to remove those systems from combat status.

(3) A report under this subsection shall include the following:

(A) The text of any understanding or agreement between the United States and the Russian Federation concerning substantial early deactivation of strategic nuclear delivery systems under the START II Treaty.

(B) The plan of the Department of Defense for implementing the agreement.

(C) An assessment of the Secretary of Defense of the adequacy of the provisions contained in the agreement for monitoring and verifying compliance of Russia with the terms of the agreement.

(D) A determination by the President as to whether the deactivations to occur under the agreement will be carried out in a symmetrical, reciprocal, or equivalent manner.

(E) An assessment by the President of the effect of the proposed early deactivation on the stability of the strategic balance and relative strategic nuclear capabilities of the United States and the Russian Federation at various stages during deactivation and upon completion.

(d) **START II TREATY DEFINED.**—For purposes of this section, the term “START II Treaty” means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the “START II Treaty” (contained in Treaty Document 103-1):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on

Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol").

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

(e) RETENTION OF B-52H AIRCRAFT ON ACTIVE STATUS.—(1)

The Secretary of the Air Force shall maintain in active status (including the performance of standard maintenance and upgrades) the current fleet of B-52H bomber aircraft.

(2) For purposes of carrying out upgrades of B-52H bomber aircraft during fiscal year 1997, the Secretary shall treat the entire current fleet of such aircraft as aircraft expected to be maintained in active status during the six-year period beginning on October 1, 1996.

#### SEC. 1303. STRENGTHENING CERTAIN SANCTIONS AGAINST NUCLEAR PROLIFERATION ACTIVITIES.

(a) SANCTIONS.—Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended to read as follows:

"(4)(A) If the Secretary of State determines that—

"(i) any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards;

"(ii) any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement;

"(iii) any country that is not a nuclear-weapon state detonates, after October 26, 1977, a nuclear explosive device;

"(iv) any country willfully aids or abets, after June 29, 1994, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material; or

"(v) any person knowingly aids or abets, after the date of enactment of the National Defense Authorization Act for Fiscal Year 1997, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material,

then the Secretary of State shall submit a report to the appropriate committees of the Congress and to the Board of Directors of the Bank stating such determination and identifying each country or person the Secretary determines has so acted.

"(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with respect to a foreign person, the Congress urges the Secretary to initiate consultations immediately with the government with primary jurisdiction over

Effective Date.

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that person with respect to the imposition of the prohibition contained in subparagraph (C).

“(ii) In order that consultations with that government may be pursued, the Board of Directors of the Bank shall delay imposition of the prohibition contained in subparagraph (C) for up to 90 days if the Secretary of State requests the Board to make such delay. Following these consultations, the prohibition contained in subparagraph (C) shall apply immediately unless the Secretary determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subparagraph (A)(v). The Board of Directors of the Bank shall delay the imposition of the prohibition contained in subparagraph (C) for up to an additional 90 days if the Secretary requests the Board to make such additional delay and if the Secretary determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

“(iii) Not later than 90 days after making a determination under subparagraph (A)(v), the Secretary of State shall submit to the appropriate committees of the Congress a report on the status of consultations with the appropriate government under this subparagraph, and the basis for any determination under clause (ii) that such government has taken specific corrective actions.

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“(C) The Board of Directors of the Bank shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to any country, or to or by any person, identified in the report described in subparagraph (A).

“(D) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to a country with respect to which a determination is made under clause (i), (ii), (iii), or (iv) of subparagraph (A) regarding any specific event described in such clause if the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that it is in the national interest for the Bank to give such approvals.

“(E) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to or by a person with respect to whom a determination is made under clause (v) of subparagraph (A) regarding any specific event described in such clause if—

“(i) the Secretary of State determines and certifies to the Congress that the appropriate government has taken the corrective actions described in subparagraph (B)(ii); or

“(ii) the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that—

“(I) reliable information indicates that—

“(aa) such person has ceased to aid or abet any non-nuclear-weapon state to acquire any

nuclear explosive device or to acquire unsafeguarded special nuclear material; and

“(bb) steps have been taken to ensure that the activities described in item (aa) will not resume; or

“(II) the prohibition would have a serious adverse effect on vital United States interests.

“(F) For purposes of this paragraph:

“(i) The term ‘country’ has the meaning given to ‘foreign state’ in section 1603(a) of title 28, United States Code.

“(ii) The term ‘knowingly’ is used within the meaning of the term ‘knowing’ in section 104(h)(3) of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2(h)(3)).

“(iii) The term ‘person’ means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

“(iv) The term ‘nuclear-weapon state’ has the meaning given the term in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

“(v) The term ‘non-nuclear-weapon state’ has the meaning given the term in section 830(5) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103-236; 108 Stat. 521).

“(vi) The term ‘nuclear explosive device’ has the meaning given the term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103-236; 108 Stat. 521).

“(vii) The term ‘unsafeguarded special nuclear material’ has the meaning given the term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.”

President.

(b) **RECOMMENDATIONS TO MAKE NONPROLIFERATION LAWS MORE EFFECTIVE.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress his recommendations on ways to make the laws of the United States more effective in controlling and preventing the proliferation of weapons of mass destruction and missiles. The report shall identify all sources of Government funds used for such nonproliferation activities.

**SEC. 1304. AUTHORITY TO PAY CERTAIN EXPENSES RELATING TO HUMANITARIAN AND CIVIC ASSISTANCE FOR CLEARANCE OF LANDMINES.**

(a) **AUTHORITY TO PAY EXPENSES.**—Section 401(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1) the following new paragraphs:

“(2) Expenses covered by paragraph (1) include the following expenses incurred in providing assistance described in subsection (e)(5):

“(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

“(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting the

activities described in subsection (e)(5), including any nonlethal, individual, or small-team landmine clearing equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

“(3) The cost of equipment, services, and supplies provided in any fiscal year under paragraph (2)(B) may not exceed \$5,000,000.”.

(b) COORDINATION WITH OTHER LAWS.—Section 401(b) of such title is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following:

“(2) Any authority provided under any other provision of law to provide assistance that is described in subsection (e)(5) to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section. Any such provision may be construed as superseding a provision of this section only if, and to the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable under such provision.”.

#### SEC. 1305. REPORT ON MILITARY CAPABILITIES OF PEOPLE'S REPUBLIC OF CHINA.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the future pattern of military modernization of the People's Republic of China. The report shall address both the probable course of military-technological development in the People's Liberation Army and the development of Chinese military strategy and operational concepts.

(b) MATTERS TO BE INCLUDED.—The report shall include analyses and forecasts of the following:

(1) Trends that would lead the People's Republic of China toward advanced intelligence, surveillance, and reconnaissance capabilities, either through a development program or by gaining access to commercial or third-party systems with militarily significant capabilities.

(2) Efforts by the People's Republic of China to develop highly accurate and low-observable ballistic and cruise missiles, and the investments in infrastructure that would allow for production of such weapons in militarily significant quantities, particularly in numbers sufficient to conduct attacks capable of overwhelming projected defense capabilities in the region.

(3) Development by the People's Republic of China of enhanced command and control networks, particularly those capable of battle management that would include long-range precision strikes.

(4) Programs of the People's Republic of China involving unmanned aerial vehicles, particularly those with extended ranges or loitering times.

(5) Exploitation by the People's Republic of China of the Global Positioning System or other similar systems, including commercial land surveillance satellites, for significant military purposes, including particularly for increasing the accuracy of weapons or the situational awareness of operating forces.

(6) Development by the People's Republic of China of capabilities for denial of sea control, such as advanced sea mines or improved submarine capabilities.

(7) Continued development by the People's Republic of China of follow-on forces, particularly those capable of rapid air or amphibious assault.

(c) **SUBMISSION OF REPORT.**—The report shall be submitted to Congress not later than February 1, 1997.

**SEC. 1306. PRESIDENTIAL REPORT REGARDING WEAPONS PROLIFERATION AND POLICIES OF THE PEOPLE'S REPUBLIC OF CHINA.**

(a) **FINDINGS.**—The Congress finds that—

(1) the People's Republic of China acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (hereafter in this section referred to as the "NPT") on March 9, 1992;

(2) the People's Republic of China is not a member of the Nuclear Suppliers Group and remains the only major nuclear supplier that continues to transfer nuclear technology, equipment, and materials to countries that have not agreed to the application of safeguards of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") over all of their nuclear materials;

(3) on June 30, 1995, the United States and 29 other members of the Nuclear Suppliers Group notified the Director General of the IAEA that the Government of each respective country has decided that the controls of that Group should not be defeated by the transfer of component parts;

(4) a state-owned entity in the People's Republic of China, the China Nuclear Energy Industry Corporation, has knowingly transferred specially designed ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan;

(5) ring magnets are identified on the Trigger List of the Nuclear Suppliers Group as a component of magnetic suspension bearings which are to be exported only to countries that have safeguards of the IAEA over all of their nuclear materials;

(6) these ring magnets could contribute significantly to the ability of the Islamic Republic of Pakistan to produce additional unsafeguarded enriched uranium, a nuclear explosive material;

(7) the Government of the People's Republic of China has transferred nuclear equipment and technology to the Islamic Republic of Iran, despite repeated claims by the Government of the United States that the Islamic Republic of Iran is engaged in clandestine efforts to acquire a nuclear explosive device;

(8) representatives of the Government of the People's Republic of China have repeatedly assured the Government of the United States that the People's Republic of China would abide by the guidelines of the Missile Technology Control Regime (hereafter in this section referred to as the "MTCR");

(9) the Government of China has transferred M-11 missiles to the Islamic Republic of Pakistan; and

(10) the M-11 missile conforms to the definition of a nuclear-capable missile under the MTCR.

(b) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that—

(1) the assistance that the People's Republic of China has provided to the Islamic Republic of Iran and to the Islamic Republic of Pakistan could contribute to the ability of such countries to manufacture nuclear weapons;

(2) the recent transfer by the People's Republic of China of ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan conflicts with China's obligations under Articles I and III of the NPT, as well as the official nonproliferation policies and assurances by the People's Republic of China and the Islamic Republic of Pakistan with respect to the nonproliferation of nuclear weapons and nuclear-capable missiles;

(3) the transfer of M-11 missiles from the People's Republic of China to the Islamic Republic of Pakistan is inconsistent with longstanding United States Government interpretations of assurances from the Government of the People's Republic of China with respect to that country's intent to abide by the guidelines of the MTCR;

(4) violations by the People's Republic of China of the standards and objectives of the MTCR and global nuclear nonproliferation regimes have jeopardized the credibility of the MTCR and such regimes;

(5) the MTCR and global nuclear nonproliferation regimes require collective international action to impose costs against and to withhold benefits from any country, including the People's Republic of China, that engages in activities that are contrary to the objectives of those regimes;

(6) the President should explore with the governments of other countries new opportunities for collective action in response to activities of any country, including the People's Republic of China, that aid or abet the global proliferation of weapons of mass destruction or their means of delivery; and

(7) the President should communicate to the Government of the People's Republic of China the sense of the Congress that the stability and growth of future relations between the people, the economies, and the Governments of the United States and the People's Republic of China will significantly depend upon substantive evidence of cooperation by the Government of the People's Republic of China in efforts to halt the global proliferation of weapons of mass destruction and their means of delivery.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Congress a report, in both classified and unclassified form, concerning the transfer from the People's Republic of China to the Islamic Republic of Pakistan of technology, equipment, or materials important to the production of nuclear weapons and their means of delivery. The President shall include in the report the following:

(1) The specific justification of the Secretary of State for determining that there was not a sufficient basis for imposing sanctions under section 2(b)(4) of the Export-Import Bank Act of 1945, as amended by section 825 of the Nuclear Proliferation Prevention Act of 1994, by reason of the transfer of ring magnets and other technology, equipment, or materials from the People's Republic of China to the Islamic Republic of Pakistan.

(2) What commitment the United States Government is seeking from the People's Republic of China to ensure that the People's Republic of China establishes a fully effective export control system that will prevent transfers (such as the Pakistan sale) from taking place in the future.

(3) A description of the pledges, assurances, and other commitments made by representatives of the Governments of the People's Republic of China and the Islamic Republic of Pakistan to the Government of the United States since January 1, 1991, with respect to the nonproliferation of nuclear weapons or nuclear-capable missiles, and an assessment of the record of compliance with such undertakings.

(4) Whether, in light of the recent assurances provided by the People's Republic of China, the President intends to make the certification and submit the report required by section 902(a)(6)(B) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note), and make the certification and submit the report required by Public Law 99-183, relating to the approval and implementation of the agreement for nuclear cooperation between the United States and the People's Republic of China, and, if not, why not.

(5) Whether the Secretary of State considers the recent assurances and clarifications provided by the People's Republic of China to have provided sufficient information to allow the United States to determine that the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954, as required by Public Law 99-183.

(6) If the President is unable or unwilling to make the certifications and reports referred to in paragraph (4), a description of what the President considers to be the significance of the clarifications and assurances provided by the People's Republic of China in the course of the recent discussions regarding the transfer by the People's Republic of China of nuclear-weapon-related equipment to the Islamic Republic of Pakistan.

(7) A description of the laws, regulations, and procedures currently used by the People's Republic of China to regulate exports of nuclear technology, equipment, or materials, including dual-use goods, and an assessment of the effectiveness of such arrangements.

(8) A description of the current policies and practices of other countries in response to the transfer of nuclear and missile technology by the People's Republic of China to the Islamic Republic of Pakistan and the Islamic Republic of Iran.

**SEC. 1307. UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.**

None of the funds appropriated or otherwise available for the Department of Defense for fiscal year 1997 or any prior fiscal year may be obligated or expended for any activity associated with the United States-People's Republic of China Joint Defense Conversion Commission until 15 days after the date on which the first semiannual report required by section 1343 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 487) is received by Congress.

**SEC. 1308. SENSE OF CONGRESS CONCERNING EXPORT CONTROLS.**

(a) FINDINGS.—The Congress makes the following findings:



(1) Export controls are a part of a comprehensive response to national security threats. The export of a United States commodity or technology should be restricted in cases in which the export of the commodity or technology would increase the threat to the national security of the United States or would be contrary to the nonproliferation goals or foreign policy interests of the United States.

(2) The export of certain commodities and technology may adversely affect the national security and foreign policy of the United States by making a significant contribution to the military potential of countries or by enhancing the capability of countries to design, develop, test, produce, stockpile, or use weapons of mass destruction and missile delivery systems, and other significant military capabilities. Therefore, the administration of export controls should emphasize the control of these exports.

(3) The acquisition of sensitive commodities and technologies by those countries and end users whose actions or policies run counter to United States national security or foreign policy interests may enhance the military capabilities of those countries, particularly their ability to design, develop, test, produce, stockpile, use, and deliver nuclear, chemical, and biological weapons and missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States and its allies. The availability to countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated through deterrence, negotiations, and other appropriate means whenever possible.

(4) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(5) On November 8, 1995, the President continued the national emergency declared in Executive Order No. 12938 of November 14, 1994, "with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons".

(6) A successor regime to COCOM (the Coordinating Committee for Multilateral Export Controls) has not been established. Currently, each nation is determining independently which dual-use military items, if any, will be controlled for export.

(7) The United States should play a leading role in promoting transparency and responsibility with regard to the transfers of sensitive dual-use goods and technologies.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) establishing an international export control regime, empowered to control exports of dual-use technology, is critically important and should be a top priority for the United States; and

(2) the United States should strongly encourage its allies and other friendly countries to—

(A) adopt export controls that are the same or similar to the export controls imposed by the United States on items on the Commerce Control List;

(B) strengthen enforcement of their export controls; and

(C) explore the use of unilateral export controls where the possibility exists that an export could contribute to the enhancement of military capabilities or proliferation described in paragraphs (3) and (5) of subsection (a).

#### SEC. 1309. COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.

(a) COMPOSITION OF THE COMMITTEE.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by adding at the end the following new paragraph:

“(5) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall serve as executive secretary to the committee.”.

(b) ADDITIONAL PURPOSE OF THE COMMITTEE.—Subsection (b)(1)(A) of such section is amended by inserting “and efforts, including efforts to stem the proliferation of weapons of mass destruction and to negate paramilitary and terrorist threats involving weapons of mass destruction” after “counterproliferation policy”.

(c) FOUR-YEAR EXTENSION OF THE COMMITTEE.—Subsection (f) of such section is amended by striking out “September 30, 1996” and inserting in lieu thereof “September 30, 2000”.

(d) REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.—Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended—

(1) in subsection (a)—

(A) by striking out “REPORT REQUIRED.—(1) Not later than May 1, 1995 and May 1, 1996, the Secretary” and inserting in lieu thereof “ANNUAL REPORT REQUIRED.—Not later than May 1 of each year, the Secretary”; and

(B) by striking out paragraph (2); and

(2) by adding at the end the following new subsections:

“(d) REVIEW COMMITTEE CHARTER DEFINED.—For purposes of this section, the term ‘Review Committee charter’ means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note).

“(e) TERMINATION OF REQUIREMENT.—The final report required under subsection (a) is the report for the year following the year in which the Counterproliferation Program Review Committee established under the Review Committee Charter ceases to exist.”.

#### SEC. 1310. SENSE OF CONGRESS CONCERNING ASSISTING OTHER COUNTRIES TO IMPROVE SECURITY OF FISSILE MATERIAL.

(a) FINDINGS.—Congress finds the following:

(1) With the end of the Cold War, the world is faced with the need to manage the dismantling of vast numbers of nuclear weapons and the disposition of the fissile materials that they contain.

(2) If recently agreed reductions in nuclear weapons are fully implemented, tens of thousands of nuclear weapons, containing a hundred tons or more of plutonium and many hundreds of tons of highly enriched uranium, will no longer be needed for military purposes.

(3) Plutonium and highly enriched uranium are the essential ingredients of nuclear weapons.

(4) Limits on access to plutonium and highly enriched uranium are the primary technical barrier to acquiring nuclear weapons capability in the world today.

(5) Several kilograms of plutonium, or several times that amount of highly enriched uranium, are sufficient to make a nuclear weapon.

(6) Plutonium and highly enriched uranium will continue to pose a potential threat for as long as they exist.

(7) Action is required to secure and account for plutonium and highly enriched uranium.

(8) It is in the national interest of the United States to—

(A) minimize the risk that fissile materials could be obtained by unauthorized parties;

(B) minimize the risk that fissile materials could be reintroduced into the arsenals from which they came, halting or reversing the arms reduction process; and

(C) strengthen the national and international control mechanisms and incentives designed to ensure continued arms reductions and prevent the spread of nuclear weapons.

(b) SENSE OF CONGRESS.—In light of the findings contained in subsection (a), it is the sense of Congress that the United States has a national security interest in assisting other countries to improve the security of their stocks of fissile material.

#### **SEC. 1311. REVIEW BY DIRECTOR OF CENTRAL INTELLIGENCE OF NATIONAL INTELLIGENCE ESTIMATE 95-19.**

(a) REVIEW.—The Director of Central Intelligence shall conduct a review of the underlying assumptions and conclusions of the National Intelligence Estimate designated as NIE 95-19 and entitled “Emerging Missile Threats to North America During the Next 15 Years”, released by the Director in November 1995.

(b) METHODOLOGY FOR REVIEW.—The Director shall carry out the review under subsection (a) through a panel of independent, nongovernmental individuals with appropriate expertise and experience. Such a panel shall be convened by the Director not later than 45 days after the date of the enactment of this Act.

(c) REPORT.—The Director shall submit the findings resulting from the review under subsection (a), together with any comments of the Director on the review and the findings, to Congress not later than three months after the appointment of the Commission under section 1321.

### **Subtitle B—Commission To Assess the Ballistic Missile Threat to the United States**

#### **SEC. 1321. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the “Commission To Assess the Ballistic Missile Threat to the United States” (hereafter in this subtitle referred to as the “Commission”).

(b) COMPOSITION.—The Commission shall be composed of nine members appointed by the Director of Central Intelligence. In select-

ing individuals for appointment to the Commission, the Director should consult with—

(1) the Speaker of the House of Representatives concerning the appointment of three of the members of the Commission;

(2) the majority leader of the Senate concerning the appointment of three of the members of the Commission; and

(3) the minority leader of the House of Representatives and the minority leader of the Senate concerning the appointment of three of the members of the Commission.

(c) **QUALIFICATIONS.**—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political and military aspects of proliferation of ballistic missiles and the ballistic missile threat to the United States.

(d) **CHAIRMAN.**—The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chairman of the Commission.

(e) **PERIOD OF APPOINTMENT; VACANCIES.**—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) **SECURITY CLEARANCES.**—All members of the Commission shall hold appropriate security clearances.

(g) **INITIAL ORGANIZATION REQUIREMENTS.**—(1) All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed, but not earlier than October 15, 1996.

#### **SEC. 1322. DUTIES OF COMMISSION.**

(a) **REVIEW OF BALLISTIC MISSILE THREAT.**—The Commission shall assess the nature and magnitude of the existing and emerging ballistic missile threat to the United States.

(b) **COOPERATION FROM GOVERNMENT OFFICIALS.**—In carrying out its duties, the Commission should receive the full and timely cooperation of the Secretary of Defense, the Director of Central Intelligence, and any other United States Government official responsible for providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

#### **SEC. 1323. REPORT.**

The Commission shall, not later than six months after the date of its first meeting, submit to the Congress a report on its findings and conclusions.

#### **SEC. 1324. POWERS.**

(a) **HEARINGS.**—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this subtitle, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) **INFORMATION.**—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and

any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this subtitle.

**SEC. 1325. COMMISSION PROCEDURES.**

(a) **MEETINGS.**—The Commission shall meet at the call of the Chairman.

(b) **QUORUM.**—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) **COMMISSION.**—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) **AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this subtitle.

**SEC. 1326. PERSONNEL MATTERS.**

(a) **PAY OF MEMBERS.**—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—(1) The chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

**SEC. 1327. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.**

(a) **POSTAL AND PRINTING SERVICES.**—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(b) **MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.**—The Director of Central Intelligence shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

**SEC. 1328. FUNDING.**

Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for fiscal year 1997. Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from such amounts, the funds required by the Commission as stated in such certification.

**SEC. 1329. TERMINATION OF THE COMMISSION.**

The Commission shall terminate 60 days after the date of the submission of its report under section 1323.

Defense Against  
Weapons of Mass  
Destruction Act  
of 1996.

## **TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION**

- Sec. 1401. Short title.
- Sec. 1402. Findings.
- Sec. 1403. Definitions.

### **Subtitle A—Domestic Preparedness**

- Sec. 1411. Response to threats of terrorist use of weapons of mass destruction.
- Sec. 1412. Emergency response assistance program.
- Sec. 1413. Nuclear, chemical, and biological emergency response.
- Sec. 1414. Chemical-biological emergency response team.
- Sec. 1415. Testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons.
- Sec. 1416. Military assistance to civilian law enforcement officials in emergency situations involving biological or chemical weapons.
- Sec. 1417. Rapid response information system.

### **Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials**

- Sec. 1421. Procurement of detection equipment United States border security.
- Sec. 1422. Extension of coverage of International Emergency Economic Powers Act.
- Sec. 1423. Sense of Congress concerning criminal penalties.
- Sec. 1424. International border security.

### **Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States**

- Sec. 1431. Coverage of weapons-usable fissile materials in Cooperative Threat Reduction programs on elimination or transportation of nuclear weapons.
- Sec. 1432. Elimination of plutonium production.

### **Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction**

- Sec. 1441. National Coordinator on Nonproliferation.
- Sec. 1442. National Security Council Committee on Nonproliferation.
- Sec. 1443. Comprehensive preparedness program.
- Sec. 1444. Termination.

**Subtitle E—Miscellaneous**

- Sec. 1451. Sense of Congress concerning contracting policy.
- Sec. 1452. Transfers of allocations among Cooperative Threat Reduction programs.
- Sec. 1453. Sense of Congress concerning assistance to states of former Soviet Union.
- Sec. 1454. Purchase of low-enriched uranium derived from Russian highly enriched uranium.
- Sec. 1455. Sense of Congress concerning purchase, packaging, and transportation of fissile materials at risk of theft.

**SEC. 1401. SHORT TITLE.**

This title may be cited as the “Defense Against Weapons of Mass Destruction Act of 1996”.

50 USC 2301  
note.

**SEC. 1402. FINDINGS.**

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

50 USC 2301  
note.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological and chemical weapons can be deployed by alternative delivery means other than long-range ballistic missiles.

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(17) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(18) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(19) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(20) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological or chemical weapons or related materials.

(21) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(22) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(23) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(24) Training and exercises can significantly improve the preparedness of State and local emergency response personnel



for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(25) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(26) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

#### SEC. 1403. DEFINITIONS.

50 USC 2302.

In this title:

(1) The term “weapon of mass destruction” means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

(A) toxic or poisonous chemicals or their precursors;

(B) a disease organism; or

(C) radiation or radioactivity.

(2) The term “independent states of the former Soviet Union” has the meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(3) The term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235.

### Subtitle A—Domestic Preparedness

#### SEC. 1411. RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

President.  
50 USC 2311.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action—

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) REPORT REQUIRED.—Not later than January 31, 1997, the President shall transmit to Congress a report containing—

(1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;

(2) requirements for improvements in those capabilities; and

(3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

50 USC 2312.

**SEC. 1412. EMERGENCY RESPONSE ASSISTANCE PROGRAM.**

(a) **PROGRAM REQUIRED.**—(1) The Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.

(2) The President may designate the head of an agency other than the Department of Defense to assume the responsibility for carrying out the program on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(3) In this section, the official responsible for carrying out the program is referred to as the “lead official”.

(b) **COORDINATION.**—In carrying out the program, the lead official shall coordinate with each of the following officials who is not serving as the lead official:

(1) The Director of the Federal Emergency Management Agency.

(2) The Secretary of Energy.

(3) The Secretary of Defense.

(4) The heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergency responses described in subsection (a)(1).

(c) **ELIGIBLE PARTICIPANTS.**—The civilian personnel eligible to receive assistance under the program are civilian personnel of Federal, State, and local agencies who have emergency preparedness responsibilities.

(d) **INVOLVEMENT OF OTHER FEDERAL AGENCIES.**—(1) The lead official may use personnel and capabilities of Federal agencies outside the agency of the lead official to provide training and expert advice under the program.

(2)(A) Personnel used under paragraph (1) shall be personnel who have special skills relevant to the particular assistance that the personnel are to provide.

(B) Capabilities used under paragraph (1) shall be capabilities that are especially relevant to the particular assistance for which the capabilities are used.

(3) If the lead official is not the Secretary of Defense, and requests assistance from the Department of Defense that, in the judgment of the Secretary of Defense would affect military readiness or adversely affect national security, the Secretary of Defense may appeal the request for Department of Defense assistance by the lead official to the President.

(e) **AVAILABLE ASSISTANCE.**—Assistance available under this program shall include the following:

(1) Training in the use, operation, and maintenance of equipment for—

(A) detecting a chemical or biological agent or nuclear radiation;

(B) monitoring the presence of such an agent or radiation;

(C) protecting emergency personnel and the public; and

(D) decontamination.

(2) Establishment of a designated telephonic link (commonly referred to as a “hot line”) to a designated source of relevant data and expert advice for the use of State or local

officials responding to emergencies involving a weapon of mass destruction or related materials.

(3) Use of the National Guard and other reserve components for purposes authorized under this section that are specified by the lead official (with the concurrence of the Secretary of Defense if the Secretary is not the lead official).

(4) Loan of appropriate equipment.

(f) **LIMITATIONS ON DEPARTMENT OF DEFENSE ASSISTANCE TO LAW ENFORCEMENT AGENCIES.**—Assistance provided by the Department of Defense to law enforcement agencies under this section shall be provided under the authority of, and subject to the restrictions provided in, chapter 18 of title 10, United States Code.

(g) **ADMINISTRATION OF DEPARTMENT OF DEFENSE ASSISTANCE.**—The Secretary of Defense shall designate an official within the Department of Defense to serve as the executive agent of the Secretary for the coordination of the provision of Department of Defense assistance under this section.

(h) **FUNDING.**—(1) Of the total amount authorized to be appropriated under section 301, \$35,000,000 is available for the program required under this section.

(2) Of the amount available for the program pursuant to paragraph (1), \$10,500,000 is available for use by the Secretary of Defense to assist the Secretary of Health and Human Services in the establishment of metropolitan emergency medical response teams (commonly referred to as “Metropolitan Medical Strike Force Teams”) to provide medical services that are necessary or potentially necessary by reason of a use or threatened use of a weapon of mass destruction.

(3) The amount available for the program under paragraph (1) is in addition to any other amounts authorized to be appropriated for the program under section 301.

**SEC. 1413. NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.** 50 USC 2313.

(a) **DEPARTMENT OF DEFENSE.**—The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

(1) the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department's responsibilities under subsection (b).

(b) **DEPARTMENT OF ENERGY.**—The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear, chemical, and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a).

(c) FUNDING.—Of the total amount authorized to be appropriated under section 301, \$15,000,000 is available for providing assistance described in subsection (a).

50 USC 2314.

**SEC. 1414. CHEMICAL-BIOLOGICAL EMERGENCY RESPONSE TEAM.**

(a) DEPARTMENT OF DEFENSE RAPID RESPONSE TEAM.—The Secretary of Defense shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of the Department of Defense who are capable of aiding Federal, State, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, or related materials.

(b) ADDITION TO FEDERAL RESPONSE PLAN.—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on the use and deployment of the rapid response teams established under this section to respond to emergencies involving weapons of mass destruction. The Director shall carry out this subsection in consultation with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

50 USC 2315.

**SEC. 1415. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, AND BIOLOGICAL WEAPONS.**

(a) EMERGENCIES INVOLVING CHEMICAL OR BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b) EMERGENCIES INVOLVING NUCLEAR AND RADIOLOGICAL WEAPONS.—(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an exper-

tise or responsibilities relevant to emergencies described in paragraph (1).

(c) **ANNUAL REVISIONS OF PROGRAMS.**—The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the official determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

(d) **OPTION TO TRANSFER RESPONSIBILITY.**—(1) The President may designate the head of an agency outside the Department of Defense to assume the responsibility for carrying out the program developed under subsection (a) beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

(e) **FUNDING.**—Of the total amount authorized to be appropriated under section 301, \$15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.

**SEC. 1416. MILITARY ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS IN EMERGENCY SITUATIONS INVOLVING BIOLOGICAL OR CHEMICAL WEAPONS.**

(a) **ASSISTANCE AUTHORIZED.**—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 382. Emergency situations involving chemical or biological weapons of mass destruction**

“(a) **IN GENERAL.**—The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175 or 2332c of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

“(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

“(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

“(b) **EMERGENCY SITUATIONS COVERED.**—In this section, the term ‘emergency situation involving a biological or chemical weapon of mass destruction’ means a circumstance involving a biological or chemical weapon of mass destruction—

“(1) that poses a serious threat to the interests of the United States; and

“(2) in which—

“(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

“(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

“(C) enforcement of section 175 or 2332c of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

“(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

“(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

“(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

“(i) Arrest.

“(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175 or 2332c of title 18.

“(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

“(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

“(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

“(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

“(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

“(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

“(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

“(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority

regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“382. Emergency situations involving chemical or biological weapons of mass destruction.”.

(b) CONFORMING AMENDMENT TO CONDITION FOR PROVIDING EQUIPMENT AND FACILITIES.—Section 372(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: “The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.”.

(c) CONFORMING AMENDMENTS RELATING TO AUTHORITY TO REQUEST ASSISTANCE.—(1)(A) Chapter 10 of title 18, United States Code, is amended by inserting after section 175 the following new section:

**“§ 175a. Requests for military assistance to enforce prohibition in certain emergencies**

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.”.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 175 the following new item:

“175a. Requests for military assistance to enforce prohibition in certain emergencies.”.

(2)(A) The chapter 133B of title 18, United States Code, that relates to terrorism is amended by inserting after section 2332c the following new section:

**“§ 2332d. Requests for military assistance to enforce prohibition in certain emergencies**

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332c of this title during an emergency situation involving a chemical weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.”.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2332c the following new item:

“2332d. Requests for military assistance to enforce prohibition in certain emergencies.”.

(d) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons

President.  
50 USC 2316.

of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

50 USC 2316.

(e) **REPORTS.**—The President shall submit to Congress the following reports:

(1) Not later than 90 days after the date of the enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after such date, a report describing—

(A) the actions planned to be taken to carry out subsection (d); and

(B) the costs of such actions.

(3) Not later than three years after such date, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d).

50 USC 2317.

#### **SEC. 1417. RAPID RESPONSE INFORMATION SYSTEM.**

(a) **INVENTORY OF RAPID RESPONSE ASSETS.**—(1) The head of each Federal Response Plan agency shall develop and maintain an inventory of physical equipment and assets under the jurisdiction of that agency that could be made available to aid State and local officials in search and rescue and other disaster management and mitigation efforts associated with an emergency involving weapons of mass destruction. The agency head shall submit a copy of the inventory, and any updates of the inventory, to the Director of the Federal Emergency Management Agency for inclusion in the master inventory required under subsection (b).

(2) Each inventory shall include a separate listing of any equipment that is excess to the needs of that agency and could be considered for disposal as excess or surplus property for use for response and training with regard to emergencies involving weapons of mass destruction.

(b) **MASTER INVENTORY.**—The Director of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories prepared under subsection (a). The first such master list shall be completed not later than December 31, 1997, and shall be updated annually thereafter.

(c) **ADDITION TO FEDERAL RESPONSE PLAN.**—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on accessing and using the physical equipment and assets included in the master list developed under subsection to respond to emergencies involving weapons of mass destruction.

(d) **DATABASE ON CHEMICAL AND BIOLOGICAL MATERIALS.**—The Director of the Federal Emergency Management Agency, in con-



sultation with the Secretary of Defense, shall prepare a database on chemical and biological agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of the database shall be completed not later than December 31, 1997.

(e) **ACCESS TO INVENTORY AND DATABASE.**—The Director of the Federal Emergency Management Agency shall design and maintain a system to give Federal, State, and local officials access to the inventory listing and database maintained under this section in the event of an emergency involving weapons of mass destruction or to prepare and train to respond to such an emergency. The system shall include a secure but accessible emergency response hotline to access information and request assistance.

## **Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials**

### **SEC. 1421. PROCUREMENT OF DETECTION EQUIPMENT UNITED STATES BORDER SECURITY. 50 USC 2331.**

Of the amount authorized to be appropriated by section 301, \$15,000,000 is available for the procurement of—

(1) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(2) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(3) materials and technologies related to use of equipment described in paragraph (1) or (2).

### **SEC. 1422. EXTENSION OF COVERAGE OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.**

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

(1) in subsection (a), by inserting “, or attempts to violate,” after “violates”; and

(2) in subsection (b), by inserting “, or willfully attempts to violate,” after “violates”.

### **SEC. 1423. SENSE OF CONGRESS CONCERNING CRIMINAL PENALTIES. 50 USC 2332.**

(a) **SENSE OF CONGRESS CONCERNING INADEQUACY OF SENTENCING GUIDELINES.**—It is the sense of Congress that the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses.

(b) **URGING OF REVISION TO GUIDELINES.**—Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under the following provisions of law:

(1) Section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410).

(2) Sections 38 and 40 of the Arms Export Control Act (22 U.S.C. 2778 and 2780).

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(4) Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 2156a(c)).

50 USC 2333.

#### **SEC. 1424. INTERNATIONAL BORDER SECURITY.**

(a) **SECRETARY OF DEFENSE RESPONSIBILITY.**—The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b) **FUNDING.**—Of the total amount authorized to be appropriated by section 301, \$15,000,000 is available for carrying out the programs referred to in subsection (a).

(c) **ASSISTANCE TO STATES OF THE FORMER SOVIET UNION.**—Assistance under programs referred to in subsection (a) may (notwithstanding any provision of law prohibiting the extension of foreign assistance to any of the newly independent states of the former Soviet Union) be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interest of the United States to extend assistance under this section to that state.

### **Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States**

#### **SEC. 1431. COVERAGE OF WEAPONS-USABLE FISSILE MATERIALS IN COOPERATIVE THREAT REDUCTION PROGRAMS ON ELIMINATION OR TRANSPORTATION OF NUCLEAR WEAPONS.**

Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 469; 22 U.S.C. 5955 note) is amended by inserting “, fissile material suitable for use in nuclear weapons,” after “other weapons”.

50 USC 2341.

#### **SEC. 1432. ELIMINATION OF PLUTONIUM PRODUCTION.**

(a) **REPLACEMENT PROGRAM.**—The Secretary of Energy, in consultation with the Secretary of Defense, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk-7 and Krasnoyarsk-26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

(b) **PROGRAM REQUIREMENTS.**—(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

- (2) The plan for the program shall—
  - (A) specify—
    - (i) successive steps for the modification or replacement of the reactor cores; and
    - (ii) clearly defined milestones to be achieved; and
  - (B) include estimates of the costs of the program.
- (c) SUBMISSION OF PROGRAM PLAN TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress—
  - (1) a plan for the program under subsection (a);
  - (2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and
  - (3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

## **Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction**

### **SEC. 1441. NATIONAL COORDINATOR ON NONPROLIFERATION.**

50 USC 2351.

(a) DESIGNATION OF POSITION.—The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

President.

(b) DUTIES.—The Coordinator, under the direction of the National Security Council, shall advise and assist the President by—

(1) advising the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime;

(2) chairing the Committee on Nonproliferation established under section 1342; and

(3) taking such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) ALLOCATION OF FUNDS.—Of the total amount authorized to be appropriated under section 301, \$2,000,000 is available to the Department of Defense for carrying out research referred to in subsection (b)(3).

### **SEC. 1442. NATIONAL SECURITY COUNCIL COMMITTEE ON NON-PROLIFERATION.**

50 USC 2352.

(a) ESTABLISHMENT.—The Committee on Nonproliferation (in this section referred to as the “Committee”) is established as a committee of the National Security Council.

(b) MEMBERSHIP.—(1) The Committee shall be composed of representatives of the following:

(A) The Secretary of State.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Attorney General.

(E) The Secretary of Energy.

(F) The Administrator of the Federal Emergency Management Agency.

(G) The Secretary of the Treasury.

(H) The Secretary of Commerce.

(I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) RESPONSIBILITIES.—The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations through the National Security Council to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Improving export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

President.  
50 USC 2353.

#### SEC. 1443. COMPREHENSIVE PREPAREDNESS PROGRAM.

(a) PROGRAM REQUIRED.—The President, acting through the Committee on Nonproliferation established under section 1442, shall develop a comprehensive program for carrying out this title.

(b) CONTENT OF PROGRAM.—The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) REPORT.—(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a).

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b).

(B) Estimates of the funds necessary, by agency or department, for carrying out such plans in fiscal year 1998 and the following five fiscal years.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

50 USC 2354.

**SEC. 1444. TERMINATION.**

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 1341; and

(2) may terminate the Committee on Nonproliferation established under section 1342.

## Subtitle E—Miscellaneous

50 USC 2361.

**SEC. 1451. SENSE OF CONGRESS CONCERNING CONTRACTING POLICY.**

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State, to the extent authorized by law, should—

(1) contract directly with suppliers in independent states of the former Soviet Union when such action would—

(A) result in significant savings of the programs referred to in subtitle C; and

(B) substantially expedite completion of the programs referred to in subtitle C; and

(2) seek means to use innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

50 USC 2362.

**SEC. 1452. TRANSFERS OF ALLOCATIONS AMONG COOPERATIVE THREAT REDUCTION PROGRAMS.**

Congress finds that—

(1) the various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs; and

(2) it is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

50 USC 2363.

**SEC. 1453. SENSE OF CONGRESS CONCERNING ASSISTANCE TO STATES OF FORMER SOVIET UNION.**

It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs authorized in the National Defense Authorization Act for Fiscal Years 1993 and 1994 should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

50 USC 2364.

**SEC. 1454. PURCHASE OF LOW-ENRICHED URANIUM DERIVED FROM RUSSIAN HIGHLY ENRICHED URANIUM.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) **ACTIONS BY THE SECRETARY OF STATE.**—Congress urges the Secretary of State to encourage, in consultation with the Sec-

retary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

**SEC. 1455. SENSE OF CONGRESS CONCERNING PURCHASE, PACKAGING, AND TRANSPORTATION OF FISSILE MATERIALS AT RISK OF THEFT.**

50 USC 2365.

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

## **TITLE XV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION**

Sec. 1501. Specification of Cooperative Threat Reduction programs.

Sec. 1502. Fiscal year 1997 funding allocations.

Sec. 1503. Prohibition on use of funds for specified purposes.

Sec. 1504. Limitation on use of funds until specified reports are submitted.

Sec. 1505. Availability of funds.

**SEC. 1501. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.**

50 USC 2362  
note.

(a) **IN GENERAL.**—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) **SPECIFIED PROGRAMS.**—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

**SEC. 1502. FISCAL YEAR 1997 FUNDING ALLOCATIONS.**

(a) **IN GENERAL.**—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For planning and design of a chemical weapons destruction facility in Russia, \$78,500,000.

(2) For elimination of strategic offensive arms in Russia, \$52,000,000.

(3) For strategic nuclear arms elimination in Ukraine, \$47,000,000.

(4) For planning and design of a storage facility for Russian fissile material, \$66,000,000.

(5) For fissile material containers in Russia, \$38,500,000.

(6) For weapons storage security in Russia, \$15,000,000.

(7) For activities designated as Defense and Military-to-Military Contacts in Russia, Ukraine, Belarus, and Kazakhstan, \$10,000,000.

(8) For activities designated as Other Assessments/Administrative Support, \$20,900,000.

(9) For materials protection, control, and accounting assistance or for destruction of nuclear, radiological, biological, or chemical weapons or related materials at any site within the former Soviet Union, \$10,000,000.

(10) For transfer to the Secretary of Energy to develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, \$10,000,000.

(11) For dismantlement of biological and chemical weapons facilities in the former Soviet Union, \$15,000,000.

(12) For expanding military-to-military programs of the United States that focus on countering the threat of proliferation of weapons of mass destruction to include the security forces of the independent states of the former Soviet Union, particularly states in the Caucasus region and Central Asia, \$2,000,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

#### SEC. 1503. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) IN GENERAL.—None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs, or appropriated for such programs for any prior fiscal



year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) **LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.**—None of the funds appropriated to the Department of Defense for fiscal year 1997 may be obligated or expended for defense conversion.

**SEC. 1504. LIMITATION ON USE OF FUNDS UNTIL SPECIFIED REPORTS ARE SUBMITTED.**

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended until 15 days after the date which is the latest of the following:

(1) The date on which the President submits to Congress the determinations required under subsection (c) of section 211 of Public Law 102-228 (22 U.S.C. 2551 note) with respect to any certification transmitted to Congress under subsection (b) of that section before the date of the enactment of this Act.

(2) The date on which the Secretary of Defense submits to Congress the first report under section 1206(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 471).

(3) The date on which the Secretary of Defense submits to Congress the report for fiscal year 1996 required under section 1205(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2883).

**SEC. 1505. AVAILABILITY OF FUNDS.**

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

## **TITLE XVI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL**

### **Subtitle A—Miscellaneous Matters Relating to Personnel Management, Pay, and Allowances**

Sec. 1601. Modification of requirement for conversion of military positions to civilian positions.

Sec. 1602. Retention of civilian employee positions at military training bases transferred to National Guard.

Sec. 1603. Clarification of applicability of certain management constraints on major range and test facility base structure.

Sec. 1604. Travel expenses and health care for civilian employees of the Department of Defense abroad.

Sec. 1605. Travel, transportation, and relocation allowances for certain former non-appropriated fund employees.

Sec. 1606. Employment and salary practices applicable to Department of Defense overseas teachers.

Sec. 1607. Employment and compensation of civilian faculty members at certain Department of Defense schools.

Sec. 1608. Reimbursement of Department of Defense domestic dependent school board members for certain expenses.

- Sec. 1609. Modification of authority for civilian employees of Department of Defense to participate voluntarily in reductions in force.
- Sec. 1610. Wage-board compensatory time off.
- Sec. 1611. Liquidation of restored annual leave that remains unused upon transfer of employee from installation being closed or realigned.
- Sec. 1612. Waiver of requirement for repayment of Voluntary Separation Incentive pay by former Department of Defense employees reemployed by the Government without pay.
- Sec. 1613. Simplification of rules relating to the observance of certain holidays.
- Sec. 1614. Revision of certain travel management authorities.
- Sec. 1615. Failure to comply with veterans' preference requirements to be treated as a prohibited personnel practice.
- Sec. 1616. Pilot programs for defense employees converted to contractor employees due to privatization at closed military installations.

#### **Subtitle B—Department of Defense Intelligence Personnel Policy**

- Sec. 1631. Short title.
- Sec. 1632. Management of civilian intelligence personnel.
- Sec. 1633. Repeal of superseded sections and clerical and conforming amendments.
- Sec. 1634. Other personnel management authorities.
- Sec. 1635. Effective date.

### **Subtitle A—Miscellaneous Matters Relating to Personnel Management, Pay, and Allowances**

#### **SEC. 1601. MODIFICATION OF REQUIREMENT FOR CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS.**

(a) **ELIMINATION OF REQUIREMENT FOR FISCAL YEAR 1997 CONVERSIONS.**—Paragraph (1) of section 1032(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 429; 10 U.S.C. 129a note) is amended—

- (1) by striking out “September 30, 1997” and inserting in lieu thereof “September 30, 1996”; and
- (2) by striking out “10,000” and inserting in lieu thereof “3,000”.

(b) **CONFORMING AMENDMENTS.**—Such section is further amended—

- (1) by striking out paragraph (2); and
- (2) by redesignating paragraph (3) as paragraph (2).

(c) **EFFECTIVE DATE.**—(1) The amendments made by this section shall take effect 30 days after the date on which the Secretary of Defense submits to Congress a certification that at least 3,000 military positions have been converted to civilian positions during fiscal year 1996 as required by section 1032(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 429).

(2) The Secretary shall publish in the Federal Register a notice of the submission of any certification to Congress under paragraph (1), including the date on which the certification was submitted to Congress.

#### **SEC. 1602. RETENTION OF CIVILIAN EMPLOYEE POSITIONS AT MILITARY TRAINING BASES TRANSFERRED TO NATIONAL GUARD.**

(a) **RETENTION OF EMPLOYEE POSITIONS.**—In the case of a military training installation described in subsection (b), the Secretary of Defense shall retain civilian employee positions of the Department of Defense at the installation after transfer to the National

Certification.  
10 USC 129a  
note.

Federal Register,  
publication.

10 USC 2687  
note.

Guard to facilitate active and reserve component training at the installation. The Secretary shall determine the extent to which positions at the installation are to be retained as positions of the Department of Defense in consultation with the Adjutant General of the National Guard of the State in which the installation is located.

(b) **MILITARY TRAINING INSTALLATIONS AFFECTED.**—This section applies with respect to each military training installation that—

(1) was approved for closure in 1995 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note);

(2) is scheduled for transfer to National Guard operation and control; and

(3) will continue to be used, after such transfer, to provide training support to active and reserve components of the Armed Forces.

(c) **MAXIMUM POSITIONS RETAINED.**—The number of civilian employee positions retained at an installation under this section may not exceed 20 percent of the Federal civilian workforce employed at the installation as of September 8, 1995.

(d) **REMOVAL OF POSITION.**—The requirement to maintain a civilian employee position at an installation under this section terminates upon the later of the following:

(1) The date of the departure or retirement from that position by the civilian employee initially employed or retained in the position as a result of this section.

(2) The date on which the Secretary certifies to Congress that the position is no longer required to ensure that effective support is provided at the installation for active and reserve component training.

**SEC. 1603. CLARIFICATION OF APPLICABILITY OF CERTAIN MANAGEMENT CONSTRAINTS ON MAJOR RANGE AND TEST FACILITY BASE STRUCTURE.**

Section 129 of title 10, United States Code, is amended—

(1) in subsection (c)(1), by inserting “, the Major Range and Test Facility Base,” after “industrial-type activities”; and

(2) by adding at the end the following:

“(e) Subsections (a), (b), and (c) apply to the Major Range and Test Facility Base (MRTFB) at the installation level. With respect to the MRTFB structure, the term ‘funds made available’ includes both direct appropriated funds and funds provided by MRTFB customers.”.

**SEC. 1604. TRAVEL EXPENSES AND HEALTH CARE FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE ABROAD.**

(a) **IN GENERAL.**—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 1599b. Employees abroad: travel expenses; health care**

“(a) **IN GENERAL.**—The Secretary of Defense may provide civilian employees, and members of their families, abroad with benefits that are comparable to certain benefits that are provided by the Secretary of State to members of the Foreign Service and their families abroad as described in subsections (b) and (c). The Secretary may designate the employees and members of families who are eligible to receive the benefits.

“(b) TRAVEL AND RELATED EXPENSES.—The Secretary of Defense may pay travel expenses and related expenses for purposes and in amounts that are comparable to the purposes for which, and the amounts in which, travel and related expenses are paid by the Secretary of State under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

“(c) HEALTH CARE PROGRAM.—The Secretary of Defense may establish a health care program that is comparable to the health care program established by the Secretary of State under section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084).

“(d) ASSISTANCE.—The Secretary of Defense may enter into agreements with the heads of other departments and agencies of the Government in order to facilitate the payment of expenses authorized by subsection (b) and to carry out a health care program authorized by subsection (c).

“(e) ABROAD DEFINED.—In this section, the term ‘abroad’ means outside—

“(1) the United States; and

“(2) the territories and possessions of the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1599b. Employees abroad: travel expenses; health care.”.

**SEC. 1605. TRAVEL, TRANSPORTATION, AND RELOCATION ALLOWANCES FOR CERTAIN FORMER NONAPPROPRIATED FUND EMPLOYEES.**

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

**“§ 5736. Travel, transportation, and relocation expenses of certain nonappropriated fund employees**

“An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) of this title who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for transferred employees.”.

(2) The table of sections at the beginning of chapter 57 of such title is amended by inserting after the item relating to section 5735 the following new item:

“5736. Travel, transportation, and relocation expenses of certain nonappropriated fund employees.”.

5 USC 5736 note.

(b) APPLICABILITY.—Section 5736 of title 5, United States Code (as added by subsection (a)(1)), shall apply to moves between positions as described in such section that are effective on or after October 1, 1996.

**SEC. 1606. EMPLOYMENT AND SALARY PRACTICES APPLICABLE TO DEPARTMENT OF DEFENSE OVERSEAS TEACHERS.**

(a) EXPANSION OF SCOPE OF EDUCATORS COVERED.—Section 2 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901) is amended—

(1) in subparagraph (A) of paragraph (1), by inserting “, or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense” after “Defense,”; and

(2) by striking out subparagraph (C) of paragraph (2) and inserting in lieu thereof the following:

“(C) who is employed in a teaching position described in paragraph (1).”.

(b) **TRANSFER OF RESPONSIBILITY FOR EMPLOYMENT AND SALARY PRACTICES.**—Section 5 of such Act (20 U.S.C. 903) is amended—

(1) in subsection (a)—

(A) by striking out “Secretary of each military department in the Department of Defense” and inserting in lieu thereof “Secretary of Defense”; and

(B) by striking out “his military department” and inserting in lieu thereof “the Department of Defense”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking out “secretary of each military department—” and inserting in lieu thereof “Secretary of Defense—”; and

(B) in paragraph (1), by striking out “his military department,” and inserting in lieu thereof “the Department of Defense”;

(3) in subsection (c)—

(A) by striking out “Secretary of each military department” and inserting in lieu thereof “Secretary of Defense”; and

(B) by striking out “his military department” and inserting in lieu thereof “the Department of Defense”; and

(4) in subsection (d), by striking out “Secretary of each military department” and inserting in lieu thereof “Secretary of Defense”.

**SEC. 1607. EMPLOYMENT AND COMPENSATION OF CIVILIAN FACULTY MEMBERS AT CERTAIN DEPARTMENT OF DEFENSE SCHOOLS.**

(a) **FACULTIES.**—Subsection (c) of section 1595 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(4) The English Language Center of the Defense Language Institute.

“(5) The Asia-Pacific Center for Security Studies.”.

(b) **CERTAIN ADMINISTRATORS.**—Such section is further amended by adding at the end the following new subsection:

“(f) **APPLICATION TO DIRECTOR AND DEPUTY DIRECTOR AT ASIA-PACIFIC CENTER FOR SECURITY STUDIES.**—In the case of the Asia-Pacific Center for Security Studies, this section also applies with respect to the Director and the Deputy Director.”.

**SEC. 1608. REIMBURSEMENT OF DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT SCHOOL BOARD MEMBERS FOR CERTAIN EXPENSES.**

Section 2164(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(7) The Secretary may provide for reimbursement of a school board member for expenses incurred by the member for travel, transportation, lodging, meals, program fees, activity fees, and other appropriate expenses that the Secretary determines are reasonable

and necessary for the performance of school board duties by the member.”.

**SEC. 1609. MODIFICATION OF AUTHORITY FOR CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE TO PARTICIPATE VOLUNTARILY IN REDUCTIONS IN FORCE.**

Subsection (f) of section 3502 of title 5, United States Code, is amended to read as follows:

“(f)(1) The Secretary of Defense or the Secretary of a military department may—

“(A) separate from service any employee who volunteers to be separated under this subparagraph even though the employee is not otherwise subject to separation due to a reduction in force; and

“(B) for each employee voluntarily separated under subparagraph (A), retain an employee in a similar position who would otherwise be separated due to a reduction in force.

“(2) The separation of an employee under paragraph (1)(A) shall be treated as an involuntary separation due to a reduction in force.

“(3) An employee with critical knowledge and skills (as defined by the Secretary concerned) may not participate in a voluntary separation under paragraph (1)(A) if the Secretary concerned determines that such participation would impair the performance of the mission of the Department of Defense or the military department concerned.

“(4) The regulations prescribed under this section shall incorporate the authority provided in this subsection.

“(5) No authority under paragraph (1) may be exercised after September 30, 2001.”.

Regulations.

Termination  
date.

**SEC. 1610. WAGE-BOARD COMPENSATORY TIME OFF.**

(a) **IN GENERAL.**—Section 5543 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

“(b) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee's scheduled tour of duty instead of payment under section 5544 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work. An agency head may not require an employee to be compensated for overtime work with an equivalent amount of compensatory time-off from the employee's tour of duty.”.

(b) **CONFORMING AMENDMENT.**—Section 5544(c) of title 5, United States Code, is amended by inserting “and the provisions of section 5543(b)” after “the last two sentences of subsection (a)”.

**SEC. 1611. LIQUIDATION OF RESTORED ANNUAL LEAVE THAT REMAINS UNUSED UPON TRANSFER OF EMPLOYEE FROM INSTALLATION BEING CLOSED OR REALIGNED.**

(a) **LUMP-SUM PAYMENT REQUIRED.**—Section 5551 of title 5, United States Code, is amended by adding at the end the following:

“(c)(1) Annual leave that is restored to an employee of the Department of Defense under section 6304(d) of this title by reason of the operation of paragraph (3) of such section and remains unused upon the transfer of the employee to a position described

in paragraph (2) shall be liquidated by payment of a lump-sum for such leave to the employee upon the transfer.

“(2) A position referred to in paragraph (1) is a position in a department or agency of the Federal Government outside the Department of Defense or a Department of Defense position that is not located at a Department of Defense installation being closed or realigned as described in section 6304(d)(3) of this title.”.

(b) **APPLICABILITY.**—Subsection (c) of section 5551 of title 5, United States Code (as added by subsection (a)), shall apply with respect to transfers described in such subsection (c) that take effect on or after the date of the enactment of this Act.

5 USC 5551 note.

**SEC. 1612. WAIVER OF REQUIREMENT FOR REPAYMENT OF VOLUNTARY SEPARATION INCENTIVE PAY BY FORMER DEPARTMENT OF DEFENSE EMPLOYEES REEMPLOYED BY THE GOVERNMENT WITHOUT PAY.**

(a) **IN GENERAL.**—Section 5597(g) of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(5) If the employment is without compensation, the appointing official may waive the repayment.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply with respect to employment accepted on or after the date of the enactment of this Act.

5 USC 5597 note.

**SEC. 1613. SIMPLIFICATION OF RULES RELATING TO THE OBSERVANCE OF CERTAIN HOLIDAYS.**

Section 6103 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) For purposes of this subsection—

“(A) the term ‘compressed schedule’ has the meaning given such term by section 6121(5); and

“(B) the term ‘adverse agency impact’ has the meaning given such term by section 6131(b).”

“(2) An agency may prescribe rules under which employees on a compressed schedule may, in the case of a holiday that occurs on a regularly scheduled non-workday for such employees, and notwithstanding any other provision of law or the terms of any collective bargaining agreement, be required to observe such holiday on a workday other than as provided by subsection (b), if the agency head determines that it is necessary to do so in order to prevent an adverse agency impact.”.

**SEC. 1614. REVISION OF CERTAIN TRAVEL MANAGEMENT AUTHORITIES.**

(a) **REPEAL OF REQUIREMENTS RELATING TO FIRE-SAFE ACCOMMODATIONS.**—(1) Section 5707 of title 5, United States Code, is amended by striking out subsection (d).

(2) Subsection (b) of section 5 of the Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391; 104 Stat. 751; 5 U.S.C. 5707 note) is repealed.

(b) **REPEAL OF PROHIBITION ON PAYMENT OF LODGING EXPENSES OF DEPARTMENT OF DEFENSE EMPLOYEES AND OTHER CIVILIANS WHEN ADEQUATE GOVERNMENT QUARTERS ARE AVAILABLE.**—(1) Section 1589 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to such section.

**SEC. 1615. FAILURE TO COMPLY WITH VETERANS' PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE.**

(a) IN GENERAL.—(1) Chapter 81 of title 10, United States Code, as amended by section 1604, is further amended by adding at the end the following new section:

**“§ 1599c. Veterans' preference requirements: Department of Defense failure to comply treated as a prohibited personnel practice**

“(a) PROHIBITED PERSONNEL PRACTICE.—It is a prohibited personnel practice for a person referred to in subsection (b) who has authority described in that subsection—

“(1) knowingly to take, recommend, or approve any personnel action with respect to such authority if the taking of such action violates a veterans' preference; or

“(2) knowingly to fail to take, recommend, or approve any personnel action with respect to such authority, if the failure to take such action violates a veterans' preference.

“(b) PERSONS COVERED.—Subsection (a) applies with respect to—

“(1) an officer or employee of the Department of Defense who has authority to take, direct others to take, recommend, or approve a personnel action with respect to an employee of the Department of Defense; and

“(2) a member of the armed forces who has such authority.

“(c) VETERANS' PREFERENCE DEFINED.—(1) In this section, the term ‘veterans' preference’ means any of the following provisions of law:

“(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) of title 5 and (with respect to a preference eligible referred to in section 7511(a)(1)(B) of such title) subchapter II of chapter 75 and section 7701 of such title.

“(B) Sections 943(c)(2) and 1784(c) of this title.

“(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198(b)).

“(D) Section 301(c) of the Foreign Service Act of 1980 (22 U.S.C. 3941(c)).

“(E) Section 3(a)(11) of the Administrative Office of the United States Courts Personnel Act of 1990 (28 U.S.C. 602 note).

“(F) Sections 106(f), 7281(e), and 7802(5) of title 38.

“(G) Section 1005(a) of title 39.

“(H) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference for the purposes of this section.

“(2) For the purposes of this section, such term includes any regulation prescribed under subsection (b) or (c) of section 1302 of title 5 and any other regulation that implements a provision of law referred to in paragraph (1).

“(d) PERSONNEL ACTION DEFINED.—In this section, the term ‘personnel action’ has the meaning given that term in section 2302 of title 5.”



(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1599c. Veterans’ preference requirements: Department of Defense failure to comply treated as a prohibited personnel practice.”.

(b) **APPLICABILITY OF TITLE 5 PROCEDURES AND SANCTIONS.**—Paragraph (1) of section 2302(a) of title 5, United States Code, is amended to read as follows:

“(1) For purposes of this title, ‘prohibited personnel practice’ means the following:

“(A) Any action described in subsection (b) of this section.

“(B) Any action or failure to act that is designated as a prohibited personnel action under section 1599c(a) of title 10.”.

(c) **REPORTING REQUIREMENT.**—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a written report on—

(1) the implementation of—

(A) section 1599c of title 10, United States Code, as added by subsection (a); and

(B) subparagraph (B) of section 2302(a)(1) of title 5, United States Code, as added by subsection (b); and

(2) the administration of veterans’ preference requirements by the Department of Defense generally.

**SEC. 1616. PILOT PROGRAMS FOR DEFENSE EMPLOYEES CONVERTED TO CONTRACTOR EMPLOYEES DUE TO PRIVATIZATION AT CLOSED MILITARY INSTALLATIONS.**

5 USC 8331 note.

(a) **PILOT PROGRAMS AUTHORIZED.**—(1) The Secretary of Defense, after consultation with the Director of the Office of Personnel Management, may establish one or more pilot programs under which Federal retirement benefits are provided in accordance with this section to persons who convert from Federal employment to employment by a Department of Defense contractor in connection with the privatization of the performance of functions at selected military installations being closed under the base closure and realignment process.

(2) The Secretary of Defense shall select the military installations to be covered by a pilot program under this section.

(b) **ELIGIBLE CONVERTED EMPLOYEES.**—(1) A person is a converted employee eligible for Federal retirement benefits under this section if the person is a former employee of the Department of Defense (other than a temporary employee) who—

(A) while employed by the Department of Defense at a military installation selected to participate in a pilot program, performed a function that was recommended, in a report of the Defense Base Closure and Realignment Commission submitted to the President under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), to be privatized for performance by a defense contractor at the same installation or in the vicinity of the installation;

(B) while so employed, separated from Federal service after being notified that the employee would be separated in a reduction in force resulting from such privatization;

(C) at the time separated from Federal service, was covered under the Civil Service Retirement System, but was not eligible

for an immediate annuity under the Civil Service Retirement System;

(D) does not withdraw retirement contributions under section 8342 of title 5, United States Code;

(E) within 60 days following such separation, is employed by the defense contractor selected to privatize the function to perform substantially the same function performed by the person before the separation; and

(F) remains employed by the defense contractor (or a successor defense contractor) or subcontractor of the defense contractor (or successor defense contractor) until attaining early deferred retirement age (unless the employment is sooner involuntarily terminated for reasons other than performance or conduct of the employee).

(2) A person who, under paragraph (1), would otherwise be eligible for an early deferred annuity under this section shall not be eligible for such benefits if the person received separation pay or severance pay due to a separation described in subparagraph (B) of that paragraph unless the person repays the full amount of such pay with interest (computed at a rate determined appropriate by the Director of the Office of Personnel Management) to the Department of Defense before attaining early deferred retirement age.

(c) **RETIREMENT BENEFITS OF CONVERTED EMPLOYEES.**—In the case of a converted employee covered by a pilot program, payment of a deferred annuity for which the converted employee is eligible under section 8338(a) of title 5, United States Code, shall commence on the first day of the first month that begins after the date on which the converted employee attains early deferred retirement age, notwithstanding the age requirement under that section. If the employment of a converted employee is involuntarily terminated by the defense contractor or subcontractor as described in subsection (b)(1)(F) and the converted employee resumes Federal service before the converted employee attains early deferred retirement age, the converted employee shall once again be covered under the Civil Service Retirement System instead of the pilot program.

(d) **COMPUTATION OF AVERAGE PAY.**—(1)(A) This paragraph applies to a converted employee who was employed in a position classified under the General Schedule immediately before the employee's covered separation from Federal service.

(B) Subject to subparagraph (C), for purposes of computing the deferred annuity for a converted employee referred to in subparagraph (A), the average pay of the converted employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that rates of basic pay are increased under section 5303 of such title during the period beginning on that date and ending on the date on which the converted employee attains early deferred retirement age.

(C) The average pay of a converted employee, as adjusted under subparagraph (B), may not exceed the amount to which an annuity of the converted employee could be increased under section 8340 of title 5, United States Code, in accordance with the limitation in subsection (g)(1) of such section (relating to maximum pay, final pay, or average pay).

(2)(A) This paragraph applies to a converted employee who was a prevailing rate employee (as defined under section 5342(2) of title 5, United States Code) immediately before the employee's covered separation from Federal service. Applicability.

(B) For purposes of computing the deferred annuity for a converted employee referred to in subparagraph (A), the average pay of the converted employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that pay rates for positions that are in the same area as, and are comparable to, the last position the converted employee held as a prevailing rate employee, are increased under section 5343(a) of such title during the period beginning on that date and ending on the date on which the converted employee attains early deferred retirement age.

(e) PAYMENT OF UNFUNDED LIABILITY.—(1) The military department concerned shall be liable for that portion of any estimated increase in the unfunded liability of the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, which is attributable to any benefits payable from such Fund to a converted employee, and any survivor of a converted employee, when the increase results from—

(A) an increase in the average pay of the converted employee under subsection (d) upon which such benefits are computed; and

(B) the commencement of an early deferred annuity in accordance with this section before the attainment of 62 years of age by the converted employee.

(2) The estimated increase in the unfunded liability for each department referred to in paragraph (1) shall be determined by the Director of the Office of Personnel Management. In making the determination, the Director shall consider any savings to the Fund as a result of a pilot program established under this section. The Secretary of the military department concerned shall pay the amount so determined to the Director in 10 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which an increase in average pay under subsection (d) becomes effective.

(f) CONTRACTOR SERVICE NOT CREDITABLE.—Service performed by a converted employee for a defense contractor after the employee's covered separation from Federal service is not creditable service for purposes of subchapter III of chapter 83 of title 5, United States Code.

(g) RECEIPT OF BENEFITS WHILE EMPLOYED BY A DEFENSE CONTRACTOR.—A converted employee may commence receipt of an early deferred annuity in accordance with this section while continuing to work for a defense contractor.

(h) LUMP-SUM CREDIT PAYMENT.—If a converted employee dies before attaining early deferred retirement age, such employee shall be treated as a former employee who dies not retired for purposes of payment of the lump-sum credit under section 8342(d) of title 5, United States Code.

(i) CONTINUED FEDERAL HEALTH BENEFITS COVERAGE.—Notwithstanding section 8905a(e)(1)(A) of title 5, United States Code, the continued coverage of a converted employee for health benefits under chapter 89 of such title by reason of the application of

section 8905a of such title to such employee shall terminate 90 days after the date of the employee's covered separation from Federal employment. For the purposes of the preceding sentence, a person who, except for subsection (b)(2), would be a converted employee shall be considered a converted employee.

(j) **REPORT BY GENERAL ACCOUNTING OFFICE.**—The Comptroller General shall conduct a study of each pilot program, if any, established under this section and submit a report on the pilot program to Congress not later than two years after the date on which the program is established. The report shall contain the following:

(1) A review and evaluation of the program, including—

(A) an evaluation of the success of the privatization outcomes of the program;

(B) a comparison and evaluation of such privatization outcomes with the privatization outcomes with respect to facilities at other military installations closed or realigned under the base closure laws;

(C) an evaluation of the impact of the program on the Federal workforce and whether the program results in the maintenance of a skilled workforce for defense contractors at an acceptable cost to the military department concerned; and

(D) an assessment of the extent to which the program is a cost-effective means of facilitating privatization of the performance of Federal activities.

(2) Recommendations relating to the expansion of the program to other installations and employees.

(3) Any other recommendation relating to the program.

(k) **IMPLEMENTING REGULATIONS.**—Not later than 30 days after the Secretary of Defense notifies the Director of the Office of Personnel Management of a decision to establish a pilot program under this section, the Director shall prescribe regulations to carry out the provisions of this section with respect to that pilot program. Before prescribing the regulations, the Director shall consult with the Secretary.

(l) **DEFINITIONS.**—In this section:

(1) The term "converted employee" means a person who, pursuant to subsection (b), is eligible for benefits under this section.

(2) The term "covered separation from Federal service" means a separation from Federal service as described under subsection (b)(1)(B).

(3) The term "Civil Service Retirement System" means the retirement system under subchapter III of chapter 83 of title 5, United States Code.

(4) The term "defense contractor" means any entity that—

(A) contracts with the Department of Defense to perform a function previously performed by Department of Defense employees;

(B) performs that function at the same installation at which such function was previously performed by Department of Defense employees or in the vicinity of that installation; and

(C) is the employer of one or more converted employees.

(5) The term "early deferred retirement age" means the first age at which a converted employee would have been eligible for immediate retirement under subsection (a) or (b)

of section 8336 of title 5, United States Code, if such converted employee had remained an employee within the meaning of section 8331(1) of such title continuously until attaining such age.

(6) The term “severance pay” means severance pay payable under section 5595 of title 5, United States Code.

(7) The term “separation pay” means separation pay payable under section 5597 of title 5, United States Code.

(m) APPLICATION OF PILOT PROGRAM.—In the event that a pilot program is established for a military installation, the pilot program shall apply to a covered separation from Federal service by an employee of the Department of Defense at the installation occurring on or after August 1, 1996.

## Subtitle B—Department of Defense Intelligence Personnel Policy

Department of  
Defense Civilian  
Intelligence  
Personnel Policy  
Act of 1996.  
10 USC 1601  
note.

### SEC. 1631. SHORT TITLE.

This subtitle may be cited as the “Department of Defense Civilian Intelligence Personnel Policy Act of 1996”.

### SEC. 1632. MANAGEMENT OF CIVILIAN INTELLIGENCE PERSONNEL.

(a) CONSOLIDATION AND STANDARDIZATION OF CIVILIAN PERSONNEL POLICY.—Chapter 83 of title 10, United States Code, is amended—

(1) by redesignating section 1602 as section 1621 and transferring that section so as to appear after section 1605;

(2) by redesignating sections 1606 and 1608 as section 1622 and 1623, respectively; and

(3) by striking out the chapter heading, the table of sections, and sections 1601, 1603, and 1604 and inserting in lieu thereof the following:

### “CHAPTER 83—CIVILIAN DEFENSE INTELLIGENCE EMPLOYEES

“Subchapter	Sec.
“I. Defense-Wide Intelligence Personnel Policy .....	1601
“II. Defense Intelligence Agency Personnel .....	1621

### “SUBCHAPTER I—DEFENSE-WIDE INTELLIGENCE PERSONNEL POLICY

“Sec.

“1601. Civilian intelligence personnel: general authority to establish excepted positions, appoint personnel, and fix rates of pay.

“1602. Basic pay.

“1603. Additional compensation, incentives, and allowances.

“1605. Benefits for certain employees assigned outside the United States.

“1606. Defense Intelligence Senior Executive Service.

“1607. Intelligence Senior Level positions.

“1608. Time-limited appointments.

“1609. Termination of defense intelligence employees.

“1610. Reductions and other adjustments in force.

“1611. Postemployment assistance: certain terminated intelligence employees.

“1612. Merit system principles and civil service protections: applicability.

“1613. Miscellaneous provisions.

“1614. Definitions.

**“§ 1601. Civilian intelligence personnel: general authority to establish excepted positions, appoint personnel, and fix rates of pay**

“(a) GENERAL AUTHORITY.—The Secretary of Defense may—

“(1) establish, as positions in the excepted service, such defense intelligence positions in the intelligence components of the Department of Defense and the military departments as the Secretary determines necessary to carry out the intelligence functions of those components and departments, including—

“(A) Intelligence Senior Level positions designated under section 1607 of this title; and

“(B) positions in the Defense Intelligence Senior Executive Service;

“(2) appoint individuals to those positions (after taking into consideration the availability of preference eligibles for appointment to those positions); and

“(3) fix the compensation of such individuals for service in those positions.

“(b) CONSTRUCTION WITH OTHER LAWS.—The authority of the Secretary of Defense under subsection (a) applies without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees.

**“§ 1602. Basic pay**

“(a) AUTHORITY TO FIX RATES OF BASIC PAY.—The Secretary of Defense (subject to the provisions of this section) shall fix the rates of basic pay for positions established under section 1601 of this title in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities.

“(b) MAXIMUM RATES.—A rate of basic pay fixed under subsection (a) for a position established under section 1601 of this title may not (except as otherwise provided by law) exceed—

“(1) in the case of a Defense Intelligence Senior Executive Service position, the maximum rate provided in section 5382 of title 5;

“(2) in the case of an Intelligence Senior Level position, the maximum rate provided in section 5382 of title 5; and

“(3) in the case of any other position, the maximum rate provided in section 5306(e) of title 5.

“(c) PREVAILING RATE SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions for civilian employees in or under which the Department of Defense may employ individuals described by section 5342(a)(2)(A) of that title.

**“§ 1603. Additional compensation, incentives, and allowances**

“(a) ADDITIONAL COMPENSATION BASED ON TITLE 5 AUTHORITIES.—The Secretary of Defense may provide employees in defense intelligence positions compensation (in addition to basic pay), including benefits, incentives, and allowances, consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5.

“(b) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT.—

(1) In addition to basic pay, employees in defense intelligence posi-

tions who are citizens or nationals of the United States and are stationed outside the continental United States or in Alaska may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, while they are so stationed.

“(2) An allowance under this subsection shall be based on—

“(A) living costs substantially higher than in the District of Columbia;

“(B) conditions of environment which (i) differ substantially from conditions of environment in the continental United States, and (ii) warrant an allowance as a recruitment incentive; or

“(C) both of the factors specified in subparagraphs (A) and (B).

“(3) An allowance under this subsection may not exceed the allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.”.

(b) MATTERS OTHER THAN PAY AND BENEFITS.—Such chapter is further amended by inserting after section 1605 the following new sections:

#### “§ 1606. Defense Intelligence Senior Executive Service

“(a) ESTABLISHMENT.—The Secretary of Defense may establish a Defense Intelligence Senior Executive Service for defense intelligence positions established pursuant to section 1601(a) of this title that are equivalent to Senior Executive Service positions. The number of positions in the Defense Intelligence Senior Executive Service may not exceed 492.

“(b) REGULATIONS CONSISTENT WITH TITLE 5 PROVISIONS.—The Secretary of Defense shall prescribe regulations for the Defense Intelligence Senior Executive Service which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5, subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Defense Intelligence Senior Executive Service is entitled shall be held or decided pursuant to those regulations), and subchapter II of chapter 43 of such title. To the extent that the Secretary determines it practicable to apply to members of, or applicants for, the Defense Intelligence Senior Executive Service other provisions of title 5 that apply to members of, or applicants for, the Senior Executive Service, the Secretary shall also prescribe regulations to implement those provisions with respect to the Defense Intelligence Senior Executive Service.

“(c) AWARD OF RANK TO MEMBERS OF THE DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Defense Intelligence Senior Executive Service. The award of such rank shall be made in a manner consistent with the provisions of that section.

#### “§ 1607. Intelligence Senior Level positions

“(a) DESIGNATION OF POSITIONS.—The Secretary of Defense may designate as an Intelligence Senior Level position any defense intelligence position that, as determined by the Secretary—

“(1) is classifiable above grade GS-15 of the General Schedule;

“(2) does not satisfy functional or program management criteria for being designated a Defense Intelligence Senior Executive Service position; and

“(3) has no more than minimal supervisory responsibilities.

“(b) REGULATIONS.—Subsection (a) shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

#### **“§ 1608. Time-limited appointments**

“(a) AUTHORITY FOR TIME-LIMITED APPOINTMENTS.—The Secretary of Defense may by regulation authorize appointing officials to make time-limited appointments to defense intelligence positions specified in the regulations.

“(b) REVIEW OF USE OF AUTHORITY.—The Secretary of Defense shall review each time-limited appointment in a defense intelligence position at the end of the first year of the period of the appointment and determine whether the appointment should be continued for the remainder of the period. The continuation of a time-limited appointment after the first year shall be subject to the approval of the Secretary.

“(c) CONDITION ON PERMANENT APPOINTMENT TO DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—An employee serving in a defense intelligence position pursuant to a time-limited appointment is not eligible for a permanent appointment to a Defense Intelligence Senior Executive Service position (including a position in which the employee is serving) unless the employee is selected for the permanent appointment on a competitive basis.

“(d) TIME-LIMITED APPOINTMENT DEFINED.—In this section, the term ‘time-limited appointment’ means an appointment (subject to the condition in subsection (b)) for a period not to exceed two years.

#### **“§ 1609. Termination of defense intelligence employees**

“(a) TERMINATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee in a defense intelligence position if the Secretary—

“(1) considers that action to be in the interests of the United States; and

“(2) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

“(b) FINALITY.—A decision by the Secretary of Defense to terminate the employment of an employee under this section is final and may not be appealed or reviewed outside the Department of Defense.

“(c) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—Whenever the Secretary of Defense terminates the employment of an employee under the authority of this section, the Secretary shall promptly notify the congressional oversight committees of such termination.

“(d) PRESERVATION OF RIGHT TO SEEK OTHER EMPLOYMENT.—Any termination of employment under this section does not affect the right of the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.



“(e) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense under this section may be delegated only to the Deputy Secretary of Defense, the head of an intelligence component of the Department of Defense (with respect to employees of that component), or the Secretary of a military department (with respect to employees of that department). An action to terminate employment of such an employee by any such official may be appealed to the Secretary of Defense.

**“§ 1610. Reductions and other adjustments in force**

Regulations.

“(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations for the separation of employees in defense intelligence positions, including members of the Defense Intelligence Senior Executive Service and employees in Intelligence Senior Level positions, during a reduction in force or other adjustment in force. The regulations shall apply to such a reduction in force or other adjustment in force notwithstanding sections 3501(b) and 3502 of title 5.

“(b) MATTERS TO BE GIVEN EFFECT.—The regulations shall give effect to the following:

“(1) Tenure of employment.

“(2) Military preference, subject to sections 3501(a)(3) and 3502(b) of title 5.

“(3) The veteran’s preference under section 3502(b) of title 5.

“(4) Performance.

“(5) Length of service computed in accordance with the second sentence of section 3502(a) of title 5.

“(c) REGULATIONS RELATING TO DEFENSE INTELLIGENCE SES.—The regulations relating to removal from the Defense Intelligence Senior Executive Service in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

“(d) RIGHT OF APPEAL.—(1) The regulations shall provide a right of appeal regarding a personnel action under the regulations. The appeal shall be determined within the Department of Defense. An appeal determined at the highest level provided in the regulations shall be final and not subject to review outside the Department of Defense. A personnel action covered by the regulations is not subject to any other provision of law that provides appellate rights or procedures.

“(2) Notwithstanding paragraph (1), a preference eligible referred to in section 7511(a)(1)(B) of title 5 may elect to have an appeal of a personnel action taken against the preference eligible under the regulation determined by the Merit Systems Protection Board instead of having the appeal determined within the Department of Defense. Section 7701 of title 5 shall apply to any such appeal to the Merit Systems Protection Board.

“(e) CONSULTATION WITH OPM.—Regulations under this section shall be prescribed in consultation with the Director of the Office of Personnel Management.”

(c) TRANSFER OF SECTION 1599.—Subtitle A of title 10, United States Code, is amended by transferring section 1599 to chapter 83 of such title, inserting such section after section 1610 (as added by subsection (b)), redesignating such section as section 1611, and in subsection (f) striking out “means” and all that follows and inserting in lieu thereof “includes the National Reconnaissance Office and any intelligence component of a military department.”

(d) **ADDITIONAL PROVISIONS.**—Such chapter is further amended by inserting after section 1611 (as so transferred and redesignated) the following new sections:

**“§ 1612. Merit system principles and civil service protections: applicability**

“(a) **APPLICABILITY OF MERIT SYSTEM PRINCIPLES.**—Section 2301 of title 5 shall apply to the exercise of authority under this subchapter (other than sections 1605 and 1611).

“(b) **CIVIL SERVICE PROTECTIONS.**—(1) If, in the case of a position established under authority other than section 1601(a)(1) of this title that is reestablished as an excepted service position under that section, the provisions of law referred to in paragraph (2) applied to the person serving in that position immediately before the position is so reestablished and such provisions of law would not otherwise apply to the person while serving in the position as so reestablished, then such provisions of law shall, subject to paragraph (3), continue to apply to the person with respect to service in that position for as long as the person continues to serve in the position without a break in service.

“(2) The provisions of law referred to in paragraph (1) are the following provisions of title 5:

“(A) Section 2302, relating to prohibited personnel practices.

“(B) Chapter 75, relating to adverse actions.

“(3)(A) Notwithstanding any provision of chapter 75 of title 5, an appeal of an adverse action by an individual employee covered by paragraph (1) shall be determined within the Department of Defense if the employee so elects.

“(B) The Secretary of Defense shall prescribe the procedures for initiating and determining appeals of adverse actions pursuant to elections made under subparagraph (A).

Procedures.

**“§ 1613. Miscellaneous provisions**

“(a) **COLLECTIVE BARGAINING AGREEMENTS.**—Nothing in sections 1601 through 1604 and 1606 through 1610 may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an agency or office that is a successor to an agency or office covered by the agreement before the succession.

“(b) **NOTICE TO CONGRESS OF REGULATIONS.**—The Secretary of Defense shall notify Congress of any regulations prescribed to carry out this subchapter (other than sections 1605 and 1611). Such notice shall be provided by submitting a copy of the regulations to the congressional oversight committees not less than 60 days before such regulations take effect.

**“§ 1614. Definitions**

“In this subchapter:

“(1) The term ‘defense intelligence position’ means a civilian position as an intelligence officer or intelligence employee of an intelligence component of the Department of Defense or of a military department.

“(2) The term ‘intelligence component of the Department of Defense’ means any of the following:

“(A) The National Security Agency.

“(B) The Defense Intelligence Agency.

“(C) The National Imagery and Mapping Agency.

“(D) Any other component of the Department of Defense that performs intelligence functions and is designated by the Secretary of Defense as an intelligence component of the Department of Defense.

“(E) Any successor to a component specified in, or designated pursuant to, this paragraph.

“(3) The term ‘congressional oversight committees’ means—

“(A) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

“(B) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives.

“(4) The term ‘excepted service’ has the meaning given such term in section 2103 of title 5.

“(5) The term ‘preference eligible’ has the meaning given such term in section 2108(3) of title 5.

“(6) The term ‘Senior Executive Service position’ has the meaning given such term in section 3132(a)(2) of title 5.

“(7) The term ‘collective bargaining agreement’ has the meaning given such term in section 7103(8) of title 5.”

(e) DESIGNATION OF NEW SUBCHAPTER II.—Chapter 83 of such title is further amended by inserting after section 1614 (as added by subsection (d)) the following:

**“SUBCHAPTER II—DEFENSE INTELLIGENCE AGENCY  
PERSONNEL**

“Sec.

“1621. Defense Intelligence Agency merit pay system.

“1622. Uniform allowance: civilian employees.

“1623. Financial assistance to certain employees in acquisition of critical skills.”

**SEC. 1633. REPEAL OF SUPERSEDED SECTIONS AND CLERICAL AND  
CONFORMING AMENDMENTS.**

(a) REPEAL OF SEPARATE MILITARY DEPARTMENT AUTHORITIES.—Section 1590 of title 10, United States Code, is repealed.

(b) REPEAL OF SEPARATE NATIONAL SECURITY AGENCY AUTHORITIES.—The following provisions of law are repealed:

(1) Sections 2 and 4 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

(2) Section 303 of the Internal Security Act of 1950 (50 U.S.C. 833).

(c) CLERICAL AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) The heading for section 1605 is amended to read as follows:

**“§ 1605. Benefits for certain employees assigned outside the  
United States”.**

(2) The table of sections at the beginning of chapter 81 is amended by striking out the items relating to sections 1590 and 1599.

(3) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are amended by striking out the item relating to chapter 83 and inserting in lieu thereof the following:

**“83. Civilian Defense Intelligence Employees ..... 1601”.**

(d) CONFORMING AMENDMENT.—Section 1621 of such title, as transferred and redesignated by section 1632(a)(1), is amended by striking out “and Central Imagery Office”.

(e) CROSS REFERENCE AMENDMENTS.—Chapter 81 of title 10, United States Code, is amended as follows:

(1) Section 1593(a)(3) is amended by striking out “section 1606” and inserting in lieu thereof “section 1622”.

(2) Section 1596(c) is amended by striking out “section 1604(b)” and inserting in lieu thereof “section 1602”.

#### **SEC. 1634. OTHER PERSONNEL MANAGEMENT AUTHORITIES.**

(a) APPLICABILITY OF FEDERAL LABOR-MANAGEMENT RELATIONS SYSTEM.—Section 7103(a)(3) of title 5, United States Code, is amended—

(1) by inserting “or” at the end of subparagraph (F);

(2) by striking out “; or” at the end of subparagraph (G) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (H).

(b) APPLICABILITY OF AUTHORITY AND PROCEDURES FOR IMPOSING CERTAIN ADVERSE ACTIONS.—Section 7511(b)(8) of such title is amended by striking out “the National Security Agency” and all that follows through “title 10” and inserting in lieu thereof “an intelligence component of the Department of Defense (as defined in section 1614 of title 10), or an intelligence activity of a military department covered under subchapter I of chapter 83 of title 10”.

10 USC 1593  
note.

#### **SEC. 1635. EFFECTIVE DATE.**

This subtitle and the amendments made by this subtitle shall take effect on October 1, 1996.

Federal  
Employee Travel  
Reform Act of  
1996.

## **TITLE XVII—FEDERAL EMPLOYEE TRAVEL REFORM**

Sec. 1701. Short title.

### **Subtitle A—Relocation Benefits**

Sec. 1711. Allowance for seeking permanent residence quarters.

Sec. 1712. Temporary quarters subsistence expenses allowance.

Sec. 1713. Modification of residence transaction expenses allowance.

Sec. 1714. Authority to pay for property management services.

Sec. 1715. Authority to transport a privately owned motor vehicle within the continental United States.

Sec. 1716. Authority to pay limited relocation allowances to an employee who is performing an extended assignment.

Sec. 1717. Authority to pay a home marketing incentive.

Sec. 1718. Revision and reenactment of additional provisions relating to relocation expenses.

### **Subtitle B—Miscellaneous Provisions**

Sec. 1721. Repeal of the long-distance telephone call certification requirement.

Sec. 1722. Transfer of authority to prescribe regulations.

Sec. 1723. Conforming and clerical amendments.

Sec. 1724. Assessment of cost savings.

Sec. 1725. Effective date and issuance of regulations.

5 USC 5701 note. **SEC. 1701. SHORT TITLE.**

This title may be cited as the “Federal Employee Travel Reform Act of 1996”.

## Subtitle A—Relocation Benefits

### SEC. 1711. ALLOWANCE FOR SEEKING PERMANENT RESIDENCE QUARTERS.

Section 5724a of title 5, United States Code, is amended to read as follows:

#### “§ 5724a. Relocation expenses of employees transferred or reemployed

“(a) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, a per diem allowance or the actual subsistence expenses, or a combination thereof, of the immediate family of the employee for en route travel of the immediate family between the employee's old and new official stations.

“(b)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government between official stations located within the United States—

“(A) the expenses of transportation of the employee and the employee's spouse for travel to seek permanent residence quarters at a new official station; and

“(B) either—

“(i) a per diem allowance or the actual subsistence expenses (or a combination of both); or

“(ii) an amount for subsistence expenses.

“(2) Expenses may be allowed under paragraph (1) only for one round trip in connection with each change of station of the employee.”.

### SEC. 1712. TEMPORARY QUARTERS SUBSISTENCE EXPENSES ALLOWANCE.

Section 5724a of title 5, United States Code, as amended by section 1712, is further amended by adding at the end the following new subsection:

“(c)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government—

“(A) actual subsistence expenses of the employee and the employee's immediate family for a period of up to 60 days while the employee or family is occupying temporary quarters when the new official station is located within the United States; or

“(B) an amount for subsistence expenses instead of the actual subsistence expenses authorized in subparagraph (A) of this paragraph.

“(2) The period authorized in paragraph (1) of this subsection for payment of expenses for residence in temporary quarters may be extended up to an additional 60 days if the head of the agency concerned or the designee of such head of the agency determines that there are compelling reasons for the continued occupancy of temporary quarters.

“(3) The regulations implementing paragraph (1)(A) shall prescribe daily rates and amounts for subsistence expenses per individual.”. Regulations.

**SEC. 1713. MODIFICATION OF RESIDENCE TRANSACTION EXPENSES ALLOWANCE.**

(a) **EXPENSES OF SALE.**—Section 5724a of title 5, United States Code, as amended by section 1712, is further amended by adding at the end the following new subsection:

“(d)(1) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station and purchase of a residence at the new official station that are required to be paid by the employee, when the old and new official stations are located within the United States.

“(2) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government from a post of duty located outside the United States to an official station within the United States (other than the official station within the United States from which the employee was transferred when assigned to the foreign tour of duty)—

“(A) expenses required to be paid by the employee for the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station from which the employee was transferred when the employee was assigned to the post of duty located outside the United States; and

“(B) expenses required to be paid by the employee for the purchase of a residence at the new official station within the United States.

“(3) Reimbursement of expenses under paragraph (2) of this subsection shall not be allowed for any sale (or settlement of an unexpired lease) or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the post of duty outside the United States.

“(4) Reimbursement for brokerage fees on the sale of the residence and other expenses under this subsection may not exceed those customarily charged in the locality where the residence is located.

“(5) Reimbursement may not be made under this subsection for losses incurred by the employee on the sale of the residence.

Applicability.

“(6) This subsection applies regardless of whether title to the residence or the unexpired lease is—

“(A) in the name of the employee alone;

“(B) in the joint names of the employee and a member of the employee's immediate family; or

“(C) in the name of a member of the employee's immediate family alone.

“(7)(A) In connection with the sale of the residence at the old official station, reimbursement under this subsection shall not exceed 10 percent of the sale price.

“(B) In connection with the purchase of a residence at the new official station, reimbursement under this subsection shall not exceed 5 percent of the purchase price.”.

(b) **RELOCATION SERVICES.**—Section 5724c of title 5, United State Code, is amended to read as follows:

**“§ 5724c. Relocation services**

“Under regulations prescribed under section 5738 of this title, each agency may enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out this subchapter. An agency may pay a fee for such services. Such services include arranging for the purchase of a transferred employee’s residence.”.

**SEC. 1714. AUTHORITY TO PAY FOR PROPERTY MANAGEMENT SERVICES.**

Section 5724a of title 5, United States Code, as amended by section 1713, is further amended—

(1) in subsection (d), by adding at the end the following:

“(8) An agency may pay to or on behalf of an employee who transfers in the interest of the Government expenses of property management services, instead of expenses under paragraph (2) or (3) of this subsection for sale of the employee’s residence, when the agency determines that such transfer is advantageous and cost-effective for the Government.”; and

(2) by adding at the end the following new subsection:

“(e) An agency may pay to or on behalf of an employee who transfers in the interest of the Government, the expenses of property management services when the employee transfers to a post of duty outside the United States. Such payment shall terminate upon return of the employee to an official station within the United States.”.

**SEC. 1715. AUTHORITY TO TRANSPORT A PRIVATELY OWNED MOTOR VEHICLE WITHIN THE CONTINENTAL UNITED STATES.**

(a) IN GENERAL.—Section 5727 of title 5, United States Code, is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(2) by inserting after subsection (b) the following new subsection:

“(c) Under regulations prescribed under section 5738 of this title, the privately owned motor vehicle or vehicles of an employee, including a new appointee or a student trainee for whom travel and transportation expenses are authorized under section 5723 of this title, may be transported at Government expense to a new official station of the employee when the agency determines that such transport is advantageous and cost-effective to the Government.”; and

(3) in subsection (e) (as so redesignated), by inserting “or (c)” after “subsection (b)”.

(b) AVAILABILITY OF APPROPRIATIONS.—(1) Section 5722(a) of title 5, United States Code, is amended—

(A) by striking out “and” at the end of paragraph (1);

(B) by striking out the period at the end of paragraph

(2) and inserting in lieu thereof “; and”; and

(C) by adding at the end the following:

“(3) the expenses of transporting a privately owned motor vehicle as authorized under section 5727(c) of this title.”.

(2) Section 5723(a) of title 5, United States Code, is amended—

(A) by striking out “and” at the end of paragraph (1);

(B) by inserting “and” after the semicolon at the end of paragraph (2); and

(C) by adding at the end the following:

“(3) the expenses of transporting a privately owned motor vehicle as authorized under section 5727(c) of this title;”.

**SEC. 1716. AUTHORITY TO PAY LIMITED RELOCATION ALLOWANCES TO AN EMPLOYEE WHO IS PERFORMING AN EXTENDED ASSIGNMENT.**

Subchapter II of chapter 57 of title 5, United States Code, as amended by section 1605, is further amended by adding at the end the following new section:

**“§ 5737. Relocation expenses of an employee who is performing an extended assignment**

“(a) Under regulations prescribed under section 5738 of this title, an agency may pay to or on behalf of an employee assigned from the employee's official station to a duty station for a period of not less than six months and not greater than 30 months, the following expenses in lieu of payment of expenses authorized under subchapter I of this chapter:

“(1) Travel expenses to and from the assignment location in accordance with section 5724 of this title.

“(2) Transportation expenses of the immediate family and household goods and personal effects to and from the assignment location in accordance with section 5724 of this title.

“(3) A per diem allowance for en route travel of the employee's immediate family to and from the assignment location in accordance with section 5724a(a) of this title.

“(4) Travel and transportation expenses of the employee and spouse to seek new residence quarters at the assignment location in accordance with section 5724a(b) of this title.

“(5) Subsistence expenses of the employee and the employee's immediate family while occupying temporary quarters upon commencement and termination of the assignment in accordance with section 5724a(c) of this title.

“(6) An amount, in accordance with section 5724a(f), to be used by the employee for miscellaneous expenses of this title.

“(7) The expenses of transporting a privately owned motor vehicle or vehicles to the assignment location in accordance with section 5727 of this title.

“(8) An allowance as authorized under section 5724b of this title for Federal, State, and local income taxes incurred on reimbursement of expenses paid under this section or on services provided in kind under this section.

“(9) Expenses of nontemporary storage of household goods and personal effects as defined in section 5726(a) of this title, subject to the limitation that the weight of the household goods and personal effects stored, together with the weight of property transported under section 5724(a) of this title, may not exceed the total maximum weight which could be transported in accordance with section 5724(a) of this title.

“(10) Expenses of property management services.

“(b) An agency shall not make payment under this section to or on behalf of the employee for expenses incurred after termination of the temporary assignment.”.



**SEC. 1717. AUTHORITY TO PAY A HOME MARKETING INCENTIVE.**

Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

**“§ 5756. Home marketing incentive payment**

Regulations.

“(a) Under regulations prescribed under subsection (b), an agency may pay to an employee who transfers in the interest of the Government an amount to encourage the employee to aggressively market the employee’s residence at the official station from which transferred when—

“(1) the residence is entered into a relocation services program established under a contract in accordance with section 5724c of this title to arrange for the purchase of the residence;

“(2) the employee finds a buyer who completes the purchase of the residence through the program; and

“(3) the sale of the residence results in a reduced cost to the Government.

“(b)(1) The Administrator of General Services shall prescribe regulations to carry out this section.

“(2) The regulations shall include a limitation on the maximum amount payable with respect to an employee’s residence. The Administrator shall establish the limitation in consultation with the Director of the Office of Management and Budget. For fiscal years 1997 and 1998, the maximum amount shall be the amount equal to five percent of the sale price of the residence.”

**SEC. 1718. REVISION AND REENACTMENT OF ADDITIONAL PROVISIONS RELATING TO RELOCATION EXPENSES.**

Section 5724a of title 5, United States Code, as amended by section 1714, is further amended by adding at the end the following new subsections:

“(f)(1) Subject to paragraph (2), an employee who is reimbursed under subsections (a) through (e) of this section or section 5724(a) of this title is entitled to an amount for miscellaneous expenses—

“(A) not to exceed two weeks’ basic pay, if such employee has an immediate family; or

“(B) not to exceed one week’s basic pay, if such employee does not have an immediate family.

“(2) Amounts paid under paragraph (1) may not exceed amounts determined at the maximum rate payable for a position at GS-13 of the General Schedule.

“(g) A former employee separated by reason of reduction in force or transfer of function who within one year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred, may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) through (f) of this section, in the same manner as though the employee had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated.

“(h) Payments for subsistence expenses, including amounts in lieu of per diem or actual subsistence expenses or a combination thereof, authorized under this section may not exceed the maximum payment allowed under regulations which implement section 5702 of this title.

“(i) Subsections (a), (b), and (c) shall be implemented under regulations issued under section 5738 of this title.

“(j) For purposes of subsections (c), (d), and (e), the term ‘United States’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979 (22 U.S.C. 3602(a))).”.

## **Subtitle B—Miscellaneous Provisions**

### **SEC. 1721. REPEAL OF THE LONG-DISTANCE TELEPHONE CALL CERTIFICATION REQUIREMENT.**

Section 1348 of title 31, United States Code, is amended—

- (1) by striking the last sentence of subsection (a)(2);
- (2) by striking subsection (b); and
- (3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

### **SEC. 1722. TRANSFER OF AUTHORITY TO PRESCRIBE REGULATIONS.**

Subchapter II of chapter 57 of title 5, United States Code, as amended by section 1716, is further amended by adding at the end the following new section:

#### **“§ 5738. Regulations**

“(a)(1) Except as specifically provided in this subchapter, the Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter.

“(2) The Administrator of General Services shall include in the regulations authority for the head of an agency or his designee to waive any limitation of this subchapter or in any implementing regulation for any employee relocating to or from a remote or isolated location who would suffer hardship if the limitation were not waived. A waiver of a limitation under authority provided in the regulations pursuant to this paragraph shall be effective notwithstanding any other provision of this subchapter.

“(b) In prescribing regulations for the implementation of section 5724b of this title, the Administrator of General Services shall consult with the Secretary of the Treasury.

“(c) The Secretary of Defense shall prescribe regulations necessary for the implementation of section 5735 of this title.”.

### **SEC. 1723. CONFORMING AND CLERICAL AMENDMENTS.**

(a) CROSS REFERENCES.—(1) Title 5, United States Code, is amended as follows:

(A) Section 3375 is amended—

(i) in subsection (a)(3), by striking out “section 5724a(a)(1)” and inserting in lieu thereof “section 5724a(a)”;

(ii) in subsection (a)(4), by striking out “section 5724a(a)(3)” and inserting in lieu thereof “section 5724a(c)”;

and

(iii) in subsection (a)(5), by striking out “section 5724a(b)” and inserting in lieu thereof “section 5724a(g)”;

and

(B) Section 5724(e) is amended by striking out “section 5724a(a), (b)” and inserting in lieu thereof “section 5724a (a) through (f)”.

(2) Section 707 of title 38, United States Code, is amended—

(A) in subsection (a)(6), by striking out “Section 5724a(a)(3)” and inserting in lieu thereof “Section 5724a(c)”; and

(B) in subsection (a)(7), by striking out “Section 5724a(a)(4)” and inserting in lieu thereof “Section 5724a(d)”.

(3) The Public Health Service Act is amended as follows:

(A) Section 501(g)(2)(A) (42 U.S.C. 290aa(g)(2)(A)) is amended by striking out “5724a(a)(1), 5724a(a)(3)” and inserting in lieu thereof “5724a(a), 5724a(c)”.

(B) Section 925(f)(2)(A) (42 U.S.C. 299c-4(f)(2)(A)) is amended by striking out “5724a(a)(1), 5724a(a)(3)” and inserting in lieu thereof “5724a(a), 5724a(c)”.

(b) REGULATIONS.—Title 5, United States Code, is amended as follows:

(1) Sections 5722, 5723, 5724, (in subsections (a), (b), and (c)), 5724b, 5726 (in subsections (b) and (c)), 5727(b), 5728 (in subsections (a), (b), and (c)(1)), and 5729 (in subsections (a) and (b)) of title 5, United States Code, are amended by striking out “Under such regulations as the President may prescribe”, and inserting in lieu thereof “Under regulations prescribed under section 5738 of this title”.

(2) Section 5724 of title 5, United States Code, is amended—

(A) by striking out “under regulations prescribed by the President” each place it appears in subsections (c) and (e) and inserting in lieu thereof “under regulations prescribed under section 5738 of this title”; and

(B) in subsection (f), by striking out “under the regulations of the President” and inserting in lieu thereof “under regulations prescribed under section 5738 of this title”.

(3) Section 5726(a) of title 5, United States Code, is amended by striking out “as the President may by regulation authorize” and inserting in lieu thereof “as authorized under regulations prescribed under section 5738 of this title”.

(4) Section 5731(a) of title 5, United States Code, is amended by striking out “in accordance with regulations prescribed by the President” and inserting in lieu thereof “in accordance with regulations prescribed under section 5738 of this title”.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 57 of title 5, United States Code, as amended by section 1605, is further amended—

(1) by inserting after the item relating to section 5736 the following:

“5737. Relocation expenses of an employee who is performing an extended assignment.  
“5738. Regulations.”;

and

(2) by inserting at the end the following:

“5756. Home marketing incentive payment.”.

#### SEC. 1724. ASSESSMENT OF COST SAVINGS.

No later than one year after the effective date set forth in section 1725(a), the Comptroller General shall submit to the

5 USC 5722 note.

Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives an assessment of the costs of Federal travel administration that are saved as a result of the amendments made by this title and the regulations prescribed to carry out the amendments.

5 USC 5722 note.

**SEC. 1725. EFFECTIVE DATE AND ISSUANCE OF REGULATIONS.**

(a) **EFFECTIVE DATE.**—The amendments made by this title shall take effect 180 days after the date of the enactment of this Act.

(b) **REGULATIONS.**—The Administrator of General Services shall, not later than the effective date set forth under subsection (a), issue final regulations implementing the amendments made by this title.

Delaware.

**TITLE XVIII—FEDERAL CHARTER FOR  
THE FLEET RESERVE ASSOCIATION**

Sec. 1801. Recognition and grant of Federal charter.

Sec. 1802. Powers.

Sec. 1803. Purposes.

Sec. 1804. Service of process.

Sec. 1805. Membership.

Sec. 1806. Board of directors.

Sec. 1807. Officers.

Sec. 1808. Restrictions.

Sec. 1809. Liability.

Sec. 1810. Maintenance and inspection of books and records.

Sec. 1811. Audit of financial transactions.

Sec. 1812. Annual report.

Sec. 1813. Reservation of right to alter, amend, or repeal charter.

Sec. 1814. Tax-exempt status required as condition of charter.

Sec. 1815. Termination.

Sec. 1816. Definition of State.

36 USC 5601.

**SEC. 1801. RECOGNITION AND GRANT OF FEDERAL CHARTER.**

The Fleet Reserve Association, a nonprofit corporation organized under the laws of the State of Delaware, is recognized as such and granted a Federal charter.

36 USC 5602.

**SEC. 1802. POWERS.**

The Fleet Reserve Association (in this title referred to as the "association") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State of Delaware and subject to the laws of that State.

36 USC 5603.

**SEC. 1803. PURPOSES.**

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Upholding and defending the Constitution of the United States.

(2) Aiding and maintaining an adequate naval defense for the United States.

(3) Assisting the recruitment of the best personnel available for the United States Navy, United States Marine Corps, and United States Coast Guard.

(4) Providing for the welfare of the personnel who serve in the United States Navy, United States Marine Corps, and United States Coast Guard.

(5) Continuing to serve loyally the United States Navy, United States Marine Corps, and United States Coast Guard.

(6) Preserving the spirit of shipmanship by providing assistance to shipmates and their families.

(7) Instilling love of the United States and the flag and promoting soundness of mind and body in the youth of the United States.

**SEC. 1804. SERVICE OF PROCESS.**

36 USC 5604.

With respect to service of process, the association shall comply with the laws of the State of Delaware and those States in which it carries on its activities in furtherance of its corporate purposes.

**SEC. 1805. MEMBERSHIP.**

36 USC 5605.

Except as provided in section 1808(g), eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

**SEC. 1806. BOARD OF DIRECTORS.**

36 USC 5606.

Except as provided in section 1808(g), the composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State of Delaware.

**SEC. 1807. OFFICERS.**

36 USC 5607.

Except as provided in section 1808(g), the positions of officers of the association and the election of members to such positions shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State of Delaware.

**SEC. 1808. RESTRICTIONS.**

36 USC 5608.

(a) **INCOME AND COMPENSATION.**—No part of the income or assets of the association may inure to the benefit of any member, officer, or director of the association or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) **LOANS.**—The association may not make any loan to any member, officer, director, or employee of the association.

(c) **ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.**—The association may not issue any shares of stock or declare or pay any dividends.

(d) **DISCLAIMER OF CONGRESSIONAL OR FEDERAL APPROVAL.**—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities by virtue of this title.

(e) **CORPORATE STATUS.**—The association shall maintain its status as a corporation organized and incorporated under the laws of the State of Delaware.

(f) **CORPORATE FUNCTION.**—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State of Delaware.

(g) **NONDISCRIMINATION.**—In establishing the conditions of membership in the association and in determining the requirements for serving on the board of directors or as an officer of the associa-

tion, the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

36 USC 5609.

**SEC. 1809. LIABILITY.**

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

36 USC 5610.

**SEC. 1810. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.**

(a) **BOOKS AND RECORDS OF ACCOUNT.**—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) **NAMES AND ADDRESSES OF MEMBERS.**—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) **RIGHT TO INSPECT BOOKS AND RECORDS.**—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) **APPLICATION OF STATE LAW.**—This section may not be construed to contravene any applicable State law.

**SEC. 1811. AUDIT OF FINANCIAL TRANSACTIONS.**

The first section of the Act entitled “An Act to provide for audit of accounts of private corporations established under Federal law”, approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

“(77) Fleet Reserve Association.”.

36 USC 5611.

**SEC. 1812. ANNUAL REPORT.**

The association shall annually submit to Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 1811. The annual report shall not be printed as a public document.

36 USC 5612.

**SEC. 1813. RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER.**

The right to alter, amend, or repeal this title is expressly reserved to Congress.

36 USC 5613.

**SEC. 1814. TAX-EXEMPT STATUS REQUIRED AS CONDITION OF CHARTER.**

If the association fails to maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 the charter granted in this title shall terminate.

36 USC 5614.

**SEC. 1815. TERMINATION.**

The charter granted in this title shall expire if the association fails to comply with any of the provisions of this title.

36 USC 5615.

**SEC. 1816. DEFINITION OF STATE.**

For purposes of this title, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the

Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

## DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military  
Construction  
Authorization  
Act for Fiscal  
Year 1997.

### SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1997".

## TITLE XXI—ARMY

- Sec. 2101. Authorized Army construction and land acquisition projects.  
 Sec. 2102. Family housing.  
 Sec. 2103. Improvements to military family housing units.  
 Sec. 2104. Authorization of appropriations, Army.  
 Sec. 2105. Land acquisition, National Ground Intelligence Center, Charlottesville, Virginia.

### SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), and, in the case of the projects described in paragraphs (2) and (3) of section 2104(b), other amounts appropriated pursuant to authorizations enacted after this Act for the projects, the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts set forth in the following table:

#### Army: Inside the United States

State	Installation or location	Total
Alabama .....	Fort Rucker .....	\$3,250,000
California .....	Army project, Naval Weapons Station, Concord .....	\$27,000,000
	Camp Roberts .....	\$5,500,000
Colorado .....	Fort Carson .....	\$17,550,000
District of Columbia	Fort McNair .....	\$6,900,000
Georgia .....	Fort Benning .....	\$53,400,000
	Fort McPherson .....	\$3,500,000
	Fort Stewart, Hunter Army Air Field.	\$6,000,000
Hawaii .....	Schofield Barracks .....	\$16,500,000
Kansas .....	Fort Riley .....	\$26,000,000
Kentucky .....	Fort Campbell .....	\$51,100,000
	Fort Knox .....	\$45,000,000
New Jersey .....	Picatinny Arsenal .....	\$5,000,000
New Mexico .....	White Sands Missile Range .....	\$41,000,000
New York .....	Fort Drum .....	\$11,400,000
North Carolina .....	Fort Bragg .....	\$14,000,000
Texas .....	Fort Hood .....	\$47,300,000
	Fort Sam Houston .....	\$3,100,000
Virginia .....	Fort Eustis .....	\$3,550,000
	National Ground Intelligence Center, Charlottesville .....	\$1,000,000
Washington .....	Fort Lewis .....	\$54,600,000

**Army: Inside the United States—Continued**

State	Installation or location	Total
CONUS Classified ....	Classified Locations .....	\$4,600,000
	Total: .....	\$447,250,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts set forth in the following table:

**Army: Outside the United States**

Country	Installation or location	Total
Germany .....	Lincoln Village, Darmstadt ...	\$7,300,000
	Spinelli Barracks, Mannheim	\$8,100,000
	Taylor Barracks, Mannheim	\$9,300,000
Italy .....	Camp Ederle .....	\$3,100,000
Korea .....	Camp Casey .....	\$16,000,000
	Camp Red Cloud .....	\$14,000,000
Overseas Classified .....	Classified Locations .....	\$64,000,000
	Total: .....	\$121,800,000

**SEC. 2102. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

**Army: Family Housing**

State	Installation	Purpose	Total
Hawaii .....	Schofield Barracks ....	54 Units .....	\$10,000,000
North Carolina .....	Fort Bragg .....	88 Units .....	\$9,800,000
Pennsylvania .....	Tobyhanna Army Depot.	200 Units .....	\$890,000
Texas .....	Fort Bliss .....	64 Units .....	\$11,000,000
	Fort Hood .....	140 Units .....	\$18,500,000
		Total: .....	\$50,190,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$2,963,000.

**SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may



improve existing military family housing units in an amount not to exceed \$105,350,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$1,942,557,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$394,250,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$121,800,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, \$5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$50,538,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$158,503,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$1,212,466,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$31,000,000 (the balance of the amount authorized under section 2101(a) for the construction of the National Range Control Center at White Sands Missile Range, New Mexico); and

(3) \$22,000,000 (the balance of the amount authorized under section 2101(a) for the whole barracks complex renewal at Fort Knox, Kentucky).

**SEC. 2105. LAND ACQUISITION, NATIONAL GROUND INTELLIGENCE CENTER, CHARLOTTESVILLE, VIRGINIA.**

(a) **ACQUISITION AUTHORIZED.**—Subject to subsection (b), the Secretary of the Army may acquire real property for the National Ground Intelligence Center, Charlottesville, Virginia.

(b) **REQUIREMENT RELATING TO ACQUISITION.**—The Secretary may not acquire real property pursuant to the authorization in subsection (a) until the Secretary certifies to the congressional defense committees, based on the results of an assessment of property currently owned or operated by the Federal Government in the vicinity of Charlottesville, Virginia, that the acquisition of the property would provide the most cost-effective means of securing a location for the National Ground Intelligence Center that satisfies the mission requirements of the center.

(c) **FUNDING.**—Of the amounts authorized to be appropriated by section 2104(a)(1), \$1,000,000 shall be available for the acquisition

tion of real property pursuant to the authorization in subsection (a).

## TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Beach replenishment, Naval Air Station, North Island, California.

### SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), and, in the case of the projects described in paragraphs (2) and (3) of section 2204(b), other amounts appropriated pursuant to authorizations enacted after this Act for the projects, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

#### Navy: Inside the United States

State	Installation or location	Amount
Arizona .....	Navy Detachment, Camp Navajo	\$3,920,000
California .....	Marine Corps Air-Ground Combat Center, Twentynine Palms	\$4,020,000
	Marine Corps Air Station, Camp Pendleton .....	\$6,240,000
	Marine Corps Base, Camp Pendleton .....	\$51,630,000
	Marine Corps Recruit Detachment, San Diego .....	\$8,150,000
	Naval Air Station, North Island	\$86,502,000
	Naval Command Control & Ocean Surveillance Center, San Diego .....	\$1,960,000
	Naval Facility, San Clemente Island.	\$17,000,000
	Naval Station, San Diego .....	\$7,050,000
Connecticut .....	Naval Submarine Base, New London.	\$13,830,000
District of Columbia	Naval District, Washington .....	\$19,300,000
Florida .....	Naval Air Station, Key West .....	\$2,250,000
	Naval Station, Mayport .....	\$2,800,000
Georgia .....	Naval Submarine Base, Kings Bay.	\$1,550,000
Hawaii .....	Marine Corps, Air Station, Kaneohe Bay.	\$20,080,000
	Naval Station, Pearl Harbor .....	\$19,600,000
	Naval Submarine Base, Pearl Harbor.	\$35,890,000
Idaho .....	Naval Surface Warfare Center, Bayview.	\$7,150,000
Illinois .....	Naval Hospital, Great Lakes .....	\$15,200,000

**Navy: Inside the United States—Continued**

State	Installation or location	Amount
	Naval Training Center, Great Lakes.	\$22,900,000
Indiana .....	Naval Surface Warfare Center, Crane.	\$5,000,000
Maryland .....	Naval Air Warfare Center, Patuxent River .....	\$1,270,000
	United States Naval Academy ....	\$10,480,000
Mississippi .....	Navy Project, Stennis Space Center.	\$7,960,000
Nevada .....	Naval Air Station, Fallon .....	\$21,630,000
North Carolina .....	Marine Corps Air Station, Cherry Point.	\$1,630,000
	Marine Corps Air Station, New River.	\$20,290,000
	Marine Corps Base, Camp Lejeune.	\$20,750,000
Pennsylvania .....	Philadelphia Naval Shipyard .....	\$8,300,000
South Carolina .....	Marine Corps Recruit Depot, Parris Island .....	\$2,540,000
Texas .....	Naval Air Station, Kingsville .....	\$1,810,000
	Naval Station, Ingleside .....	\$16,850,000
Virginia .....	Armed Forces Staff College, Norfolk .....	\$12,900,000
	Marine Corps Combat Development Command, Quantico .....	\$14,570,000
	Naval Station, Norfolk .....	\$56,120,000
	Naval Surface Warfare Center, Dahlgren.	\$8,030,000
Washington .....	Naval Station, Everett .....	\$25,740,000
	Naval Undersea Warfare Center, Keyport .....	\$6,800,000
CONUS Various ....	Defense access roads .....	\$300,000
	Total: .....	\$589,992,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), and, in the case of the project described in section 2204(b)(4), other amounts appropriated pursuant to authorizations enacted after this Act for the project, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

Country	Installation or location	Amount
Bahrain .....	Administrative Support Unit, Bahrain.	\$5,980,000
Greece .....	Naval Support Activity, Souda Bay.	\$7,050,000
Italy .....	Naval Air Station, Sigonella .....	\$15,700,000
	Naval Support Activity, Naples	\$8,620,000
Puerto Rico .....	Naval Station, Roosevelt Roads	\$23,600,000

**Navy: Outside the United States—Continued**

Country	Installation or location	Amount
United Kingdom .....	Joint Maritime Communications Center, St. Mawgan .....	\$4,700,000
	Total: .....	\$65,650,000

**SEC. 2202. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

**Navy: Family Housing**

State	Installation	Purpose	Amount
Arizona .....	Marine Corps Air Station, Yuma ...	Ancillary Facility.	\$709,000
California .....	Marine Corps Air-Ground Combat Center, Twentynine Palms .....		
	Marine Corps Base, Camp Pendleton .....	Ancillary Facilities.	\$2,938,000
	Naval Air Station, Lemoore .....		
	Navy Public Works Center, San Diego .....	202 Units .....	\$29,483,000
	Naval Air Station, Mayport.	276 Units .....	\$39,837,000
Florida .....	Marine Corps Air Station, Kaneohe Bay ....	366 Units .....	\$48,719,000
	Navy Public Works Center, Pearl Harbor .....	100 Units .....	\$10,000,000
Hawaii .....	Marine Corps Air Station, Kaneohe Bay ....	54 Units .....	\$11,676,000
	Navy Public Works Center, Pearl Harbor .....	264 Units .....	\$52,586,000
Maine .....	Naval Air Station Brunswick .....	92 Units .....	\$10,925,000
Maryland .....	Naval Air Warfare Center, Patuxent River .....	Ancillary Facility.	\$1,233,000
	Marine Corps Base, Camp Lejeune .....		
North Carolina	Marine Corps Base, Camp Lejeune .....	Ancillary Facility.	\$845,000
	Marine Corps Base, Camp Lejeune .....		
	Marine Corps Base, Camp Lejeune .....	94 Units .....	\$10,110,000

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(b) **ACTIVITIES PENDING AGREEMENT.**—The Sec-  
delay commencement of, or activities under, the con-  
described in subsection (a), including the beach  
portion of the project, pending the execution of  
agreement.

## TITLE XXIII—AIR FORCE

- Sec. 2301. Authorized Air Force construction and land acquisition.  
Sec. 2302. Family housing.  
Sec. 2303. Improvements to military family housing units.  
Sec. 2304. Authorization of appropriations, Air Force.  
Sec. 2305. Elimination of authority to carry out fiscal  
Spangdahlem Air Force Base, Germany.

### SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amount  
pursuant to the authorization of appropriation  
2304(a)(1), the Secretary of the Air Force may ac-  
and carry out military construction projects for  
and locations inside the United States, and in  
forth in the following table:

#### Air Force: Inside the United States

State	Installation or location
Alabama .....	Maxwell Air Force Base .....
Alaska .....	Elmendorf Air Force Base .....
	Eielson Air Force Base .....
	King Salmon Air Force Base .....
Arizona .....	Davis-Monthan Air Force Base.
	Luke Air Force Base .....
Arkansas .....	Little Rock Air Force Base .....
California .....	Beale Air Force Base .....
	Edwards Air Force Base .....
	Travis Air Force Base .....
	Vandenberg Air Force Base .....
Colorado .....	Buckley Air National Guard Base.
	Falcon Air Force Station .....
	Peterson Air Force Base .....
	United States Air Force .....

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$499,886,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), \$1,014,241,000.

(6) For the construction of a bachelor enlisted quarters at the Naval Construction Battalion Center, Port Hueneme, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 525), \$7,700,000.

(7) For the construction of a Strategic Maritime Research Center at the Naval War College, Newport, Rhode Island, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3031), \$8,000,000.

(8) For the construction of the large anechoic chamber facility at the Patuxent River Naval Warfare Center, Aircraft Division, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2590), \$10,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$5,200,000 (the balance of the amount authorized under section 2201(a) for the construction of a bachelors enlisted quarters at Naval Hospital, Great Lakes, Illinois);

(3) \$5,480,000 (the balance of the amount authorized under section 2201(a) for the construction of a chiller system upgrade at the United States Naval Academy, Maryland); and

(4) \$14,100,000 (the balance of the amount authorized under section 2201(b) for the construction of a bachelor enlisted quarters at Naval Station, Roosevelt Roads, Puerto Rico).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (8) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by \$12,000,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

#### **SEC. 2205. BEACH REPLENISHMENT, NAVAL AIR STATION, NORTH ISLAND, CALIFORNIA.**

(a) COST-SHARING AGREEMENT.—With regard to the portion of the military construction project for Naval Air Station, North Island, California, authorized by section 2201(a) and involving on-shore and near-shore beach replenishment, the Secretary of the Navy shall enter into an agreement with the State of California and local governments in the vicinity of the project, under which the State and local governments agree to cover not less than 50 percent of the cost incurred by the Secretary to carry out the beach replenishment portion of the project. Within amounts appropriated for the project, Federal expenditures may not exceed \$9,630,000 for beach replenishment.

(b) **ACTIVITIES PENDING AGREEMENT.**—The Secretary shall not delay commencement of, or activities under, the construction project described in subsection (a), including the beach replenishment portion of the project, pending the execution of the cost-sharing agreement.

## TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Elimination of authority to carry out fiscal year 1995 project, Spangdahlem Air Force Base, Germany.

### SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

State	Installation or location	Amount
Alabama .....	Maxwell Air Force Base .....	\$7,875,000
Alaska .....	Elmendorf Air Force Base .....	\$21,530,000
	Eielson Air Force Base .....	\$3,900,000
	King Salmon Air Force Base .....	\$5,700,000
Arizona .....	Davis-Monthan Air Force Base .....	\$9,920,000
	Luke Air Force Base .....	\$6,700,000
Arkansas .....	Little Rock Air Force Base .....	\$18,105,000
California .....	Beale Air Force Base .....	\$14,425,000
	Edwards Air Force Base .....	\$20,080,000
	Travis Air Force Base .....	\$14,980,000
	Vandenberg Air Force Base .....	\$3,290,000
Colorado .....	Buckley Air National Guard Base .....	\$17,960,000
	Falcon Air Force Station .....	\$2,095,000
	Peterson Air Force Base .....	\$20,720,000
	United States Air Force Academy .....	\$12,165,000
Delaware .....	Dover Air Force Base .....	\$19,980,000
Florida .....	Eglin Air Force Base .....	\$4,590,000
	Eglin Auxiliary Field 9 .....	\$6,825,000
	Patrick Air Force Base .....	\$2,595,000
	Tyndall Air Force Base .....	\$3,600,000
Georgia .....	Moody Air Force Base .....	\$3,350,000
	Robins Air Force Base .....	\$25,045,000
Idaho .....	Mountain Home Air Force Base .....	\$15,945,000
Kansas .....	McConnell Air Force Base .....	\$19,130,000
Louisiana .....	Barksdale Air Force Base .....	\$4,890,000

**Air Force: Inside the United States—Continued**

State	Installation or location	Amount
Maryland .....	Andrews Air Force Base .....	\$8,140,000
Mississippi .....	Keesler Air Force Base .....	\$14,465,000
Montana .....	Malstrom Air Force Base .....	\$6,300,000
Nevada .....	Indian Springs Air Force Auxiliary Air Field .....	\$4,690,000
	Nellis Air Force Base .....	\$9,900,000
New Mexico .....	Cannon Air Force Base .....	\$7,100,000
	Kirtland Air Force Base .....	\$10,000,000
New Jersey .....	McGuire Air Force Base .....	\$8,080,000
North Carolina .....	Pope Air Force Base .....	\$5,915,000
	Seymour Johnson Air Force Base .....	\$11,280,000
North Dakota .....	Grand Forks Air Force Base .....	\$12,470,000
	Minot Air Force Base .....	\$3,940,000
Ohio .....	Wright-Patterson Air Force Base .....	\$7,400,000
Oklahoma .....	Tinker Air Force Base .....	\$9,880,000
South Carolina .....	Charleston Air Force Base ....	\$37,410,000
	Shaw Air Force Base .....	\$14,465,000
South Dakota .....	Ellsworth Air Force Base .....	\$4,150,000
Tennessee .....	Arnold Engineering Develop- ment Center .....	\$12,481,000
Texas .....	Brooks Air Force Base .....	\$5,400,000
	Dyess Air Force Base .....	\$12,295,000
	Kelly Air Force Base .....	\$3,250,000
	Lackland Air Force Base .....	\$9,413,000
	Sheppard Air Force Base .....	\$9,400,000
Utah .....	Hill Air Force Base .....	\$3,690,000
Virginia .....	Langley Air Force Base .....	\$8,005,000
Washington .....	Fairchild Air Force Base .....	\$18,155,000
	McChord Air Force Base .....	\$57,065,000
Wyoming .....	F.E. Warren Air Force Base .....	\$3,700,000
	Total: .....	\$603,834,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

Country	Installation or location	Amount
Germany .....	Ramstein Air Force Base .....	\$5,370,000
	Spangdahlem Air Base .....	\$1,890,000
Italy .....	Aviano Air Base .....	\$10,060,000
Korea .....	Osan Air Base .....	\$9,780,000
Turkey .....	Incirlik Air Base .....	\$7,160,000
United Kingdom .....	Croughton Royal Air Force Base .....	\$1,740,000
	Lakenheath Royal Air Force Base .....	\$17,525,000



**Air Force: Outside the United States—Continued**

Country	Installation or location	Amount
Overseas Classified .....	Mildenhall Royal Air Force Base.	\$6,195,000
	Classified Locations .....	\$18,395,000
	Total: .....	\$78,115,000

**SEC. 2302. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

**Air Force: Family Housing**

State	Installation	Purpose	Amount
Alaska .....	Eielson Air Force Base	72 Units .....	\$21,127,000
California .....	Eielson Air Force Base	Ancillary Facility	\$2,950,000
	Beale Air Force Base	56 Units .....	\$8,893,000
	Los Angeles Air Force Base .....	25 Units .....	\$6,425,000
	Travis Air Force Base	70 Units .....	\$8,631,000
	Vandenberg Air Force Base .....	112 Units .....	\$20,891,000
	Bolling Air Force Base	40 Units .....	\$5,000,000
District of Columbia.	Eglin Auxiliary Field 9.	1 Unit .....	\$249,000
Florida .....	MacDill Air Force Base.	56 Units .....	\$8,822,000
	Patrick Air Force Base	Ancillary Facility	\$2,430,000
	Tyndall Air Force Base.	42 Units .....	\$6,000,000
	Robins Air Force Base	46 Units .....	\$5,252,000
Georgia .....	Barksdale Air Force Base .....	80 Units .....	\$9,570,000
Louisiana .....	Hanscom Air Force Base .....	32 Units .....	\$5,100,000
Massachusetts .....	Whiteman Air Force Base .....	68 Units .....	\$9,600,000
Missouri .....	Malstrom Air Force Base .....	98 Units .....	\$15,688,000
Montana .....	Nellis Air Force Base	50 Units .....	\$7,955,000
Nevada .....	Kirtland Air Force Base .....	50 Units .....	\$5,450,000
New Mexico .....	Grand Forks Air Force Base .....	66 Units .....	\$7,784,000
North Dakota .....	Minot Air Force Base	46 Units .....	\$8,740,000
	Lackland Air Force Base .....	82 Units .....	\$11,500,000
	Lackland Air Force Base .....	Ancillary Facility	\$800,000
	Lackland Air Force Base .....	Ancillary Facility	\$800,000

**Air Force: Family Housing—Continued**

State	Installation	Purpose	Amount
Washington .....	McChord Air Force Base .....	50 Units .....	\$5,659,000
		Total: .....	\$184,516,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$9,590,000.

**SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed \$123,650,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of \$1,894,594,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), \$603,834,000.

(2) For military construction projects outside the United States authorized by section 2301(b), \$78,115,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$9,328,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$50,687,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$317,756,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$829,474,000.

(6) For the construction of a corrosion control facility at Tinker Air Force Base, Oklahoma, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 530), \$5,400,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

**SEC. 2305. ELIMINATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1995 PROJECT, SPANGDAHLEM AIR FORCE BASE, GERMANY.**

(a) **ELIMINATION OF PROJECT.**—The table in section 2301(b) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3037) is amended in the item relating to Spangdahlem Air Base, Germany, by striking out “\$9,473,000” in the amount column and inserting in lieu thereof “\$7,373,000”, such reduction corresponding to the project to upgrade the sewage and storm water system at the installation.

(b) **CONFORMING AMENDMENT TO AUTHORIZATION OF APPROPRIATIONS.**—Section 2304(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3038) is amended—

(1) in the matter preceding paragraph (1), by striking out “\$1,601,602,000” and inserting in lieu thereof “\$1,599,502,000”; and

(2) in paragraph (2), by striking out “\$38,273,000” and inserting in lieu thereof “\$36,173,000”.

## **TITLE XXIV—DEFENSE AGENCIES**

- Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.  
 Sec. 2402. Military housing planning and design.  
 Sec. 2403. Improvements to military family housing units.  
 Sec. 2404. Military housing improvement program.  
 Sec. 2405. Energy conservation projects.  
 Sec. 2406. Authorization of appropriations, Defense Agencies.  
 Sec. 2407. Reduction in amounts authorized to be appropriated for fiscal year 1996  
 Defense Agencies military construction, land acquisition, and military family housing functions.

**SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2406(a)(1), and, in the case of the projects described in paragraphs (2) and (3) of section 2406(b), other amounts appropriated pursuant to authorizations enacted after this Act for the projects, the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Inside the United States**

Agency	Installation or location	Amount
Chemical Demilitarization Program .....	Pueblo Chemical Activity, Colorado .....	\$179,000,000
Defense Finance & Accounting Service .....	Charleston, South Carolina ...	\$6,200,000
	Fort Sill, Oklahoma .....	\$12,864,000
	Gentile Air Force Station, Ohio .....	\$11,400,000
	Griffiss Air Force Base, New York .....	\$10,200,000
	Loring Air Force Base, Maine	\$6,900,000
	Naval Training Center, Orlando, Florida .....	\$2,600,000

**Defense Agencies: Inside the United States—Continued**

Agency	Installation or location	Amount
Defense Intelligence Agency .....	Norton Air Force Base, California .....	\$13,800,000
	Offutt Air Force Base, Nebraska .....	\$7,000,000
	Rock Island Arsenal, Illinois .....	\$14,400,000
Defense Logistics Agency .....	Bolling Air Force Base, District of Columbia .....	\$6,790,000
	Altus Air Force Base, Oklahoma .....	\$3,200,000
Defense Medical Facility Office .....	Andrews Air Force Base, Maryland .....	\$12,100,000
	Barksdale Air Force Base, Louisiana .....	\$4,300,000
	Defense Construction Supply Center, Columbus, Ohio .....	\$600,000
	Defense Distribution, San Diego, California .....	\$15,700,000
	Elmendorf Air Force Base, Alaska .....	\$21,000,000
	McConnell Air Force Base, Kansas .....	\$2,200,000
	Naval Air Facility, El Centro, California .....	\$5,700,000
	Naval Air Station, Fallon, Nevada .....	\$2,100,000
	Naval Air Station, Oceana, Virginia .....	\$1,500,000
	Shaw Air Force Base, South Carolina .....	\$2,900,000
	Travis Air Force Base, California .....	\$15,200,000
	Andrews Air Force Base, Maryland .....	\$15,500,000
	Charleston Air Force Base, South Carolina .....	\$1,800,000
	Fort Bliss, Texas .....	\$6,600,000
	Fort Bragg, North Carolina .....	\$11,400,000
	Fort Hood, Texas .....	\$1,950,000
	Marine Corps Base, Camp Pendleton, California .....	\$3,300,000
	Maxwell Air Force Base, Alabama .....	\$25,000,000
Special Operations Command .....	Naval Air Station, Key West, Florida .....	\$15,200,000
	Naval Air Station, Norfolk, Virginia .....	\$1,250,000
	Naval Air Station, Lemoore, California .....	\$38,000,000
	Fort Bragg, North Carolina .....	\$14,000,000

**Defense Agencies: Inside the United States—Continued**

Agency	Installation or location	Amount
	Fort Campbell, Kentucky .....	\$4,200,000
	MacDill Air Force Base, Florida .....	\$9,600,000
	Naval Amphibious Base, Coronado, California .....	\$7,700,000
	Naval Station, Ford Island, Pearl Harbor, Hawaii .....	\$12,800,000
	Total: .....	\$525,454,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2406(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Outside the United States**

Agency	Installation or location	Amount
Defense Logistics Agency .....	Moron Air Base, Spain .....	\$12,958,000
	Naval Air Station, Sigonella, Italy .....	\$6,100,000
Defense Medical Facility Office .....	Administrative Support Unit, Bahrain, Bahrain .....	\$4,600,000
	Total: .....	\$23,658,000

**SEC. 2402. MILITARY HOUSING PLANNING AND DESIGN.**

Using amounts appropriated pursuant to the authorization of appropriation in section 2406(a)(14)(A), the Secretary of Defense may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$500,000.

**SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriation in section 2406(a)(14)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed \$3,871,000.

**SEC. 2404. MILITARY HOUSING IMPROVEMENT PROGRAM.**

(a) AVAILABILITY OF FUNDS FOR CREDIT TO FAMILY HOUSING IMPROVEMENT FUND.—(1) Of the amount authorized to be appropriated pursuant to section 2406(a)(14)(C), \$25,000,000 shall be available for credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code.

(2) Of the amount authorized to be appropriated pursuant to section 2406(a)(14)(D), \$5,000,000 shall be available for credit

to the Department of Defense Military Unaccompanied Housing Improvement Fund established by section 2883(a)(2) of such title.

(b) **USE OF FUNDS.**—(1) The Secretary of Defense may use funds credited to the Department of Defense Family Housing Improvement Fund under subsection (a)(1) to carry out any activities authorized by subchapter IV of chapter 169 of such title with respect to military family housing.

(2) The Secretary of Defense may use funds credited to the Department of Defense Military Unaccompanied Housing Improvement Fund under subsection (a)(2) to carry out any activities authorized by subchapter IV of chapter 169 of such title with respect to military unaccompanied housing.

#### **SEC. 2405. ENERGY CONSERVATION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2406(a)(12), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

#### **SEC. 2406. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of \$3,379,703,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), \$344,854,000.

(2) For military construction projects outside the United States authorized by section 2401(b), \$23,658,000.

(3) For military construction projects at Naval Hospital, Portsmouth, Virginia, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1640), \$24,000,000.

(4) For military construction projects at Walter Reed Army Institute of Research, Maryland, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2599), \$72,000,000.

(5) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (106 Stat. 2599), \$89,000,000.

(6) For military construction projects at Pine Bluff Arsenal, Arkansas, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of the Public Law 103-337; 108 Stat. 3040), \$46,000,000.

(7) For military construction projects at Umatilla Army Depot, Oregon, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (108 Stat. 3040), \$64,000,000.

(8) For military construction projects at the Defense Finance and Accounting Service, Columbus, Ohio, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 535), \$20,822,000.

(9) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, \$4,500,000.

(10) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$21,874,000.

(11) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$12,239,000.

(12) For energy conservation projects under section 2865 of title 10, United States Code, \$47,765,000.

(13) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), \$2,507,476,000.

(14) For military family housing functions:

(A) For improvement and planning of military family housing and facilities, \$4,371,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), \$30,963,000, of which not more than \$25,637,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund as authorized by section 2404(a)(1) of this Act, \$25,000,000.

(D) For credit to the Department of Defense Military Unaccompanied Housing Improvement Fund as authorized by section 2404(a)(2) of this Act, \$5,000,000.

(E) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, \$36,181,000, to remain available until expended.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$179,000,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a chemical demilitarization facility at Pueblo Army Depot, Colorado); and

(3) \$1,600,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a replacement facility for the medical and dental clinic, Key West Naval Air Station, Florida).

**SEC. 2407. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1996 DEFENSE AGENCIES MILITARY CONSTRUCTION, LAND ACQUISITION, AND MILITARY FAMILY HOUSING FUNCTIONS.**

Section 2405 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 537) is amended by adding at the end the following new subsection:

“(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such

paragraphs, reduced by \$7,000,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.”.

## **TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM**

Sec. 2501. Authorized NATO construction and land acquisition projects.  
Sec. 2502. Authorization of appropriations, NATO.

### **SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

### **SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Security Investment program as authorized by section 2501, in the amount of \$172,000,000.

## **TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES**

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.  
Sec. 2602. Authorization and funding for construction and improvement of Naval Reserve Centers.  
Sec. 2603. Upgrade Air National Guard facilities, Bangor International Airport, Maine.

### **SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

There are authorized to be appropriated for fiscal years beginning after September 30, 1996, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, \$59,194,000; and

(B) for the Army Reserve, \$55,543,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, \$32,779,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, \$188,505,000; and



(B) for the Air Force Reserve, \$52,805,000.

**SEC. 2602. AUTHORIZATION AND FUNDING FOR CONSTRUCTION AND IMPROVEMENT OF NAVAL RESERVE CENTERS.**

(a) **ARMY RESERVE CENTERS.**—Using amounts appropriated under the heading “MILITARY CONSTRUCTION, NAVAL RESERVE” in the Military Construction Appropriations Act, 1995 (Public Law 103-307; 108 Stat. 1661), for the construction of a Naval Reserve Center in Seattle, Washington, the Secretary of the Army may carry out a military construction project for the construction of an Army Reserve Center at Fort Lawton, Washington, in the total amount of \$5,200,000, of which \$700,000 may be used for program and design activities relating to such construction.

(b) **NAVAL RESERVE FACILITIES.**—Using amounts appropriated under the heading “MILITARY CONSTRUCTION, NAVAL RESERVE” in the Military Construction Appropriations Act, 1995 (Public Law 103-307; 108 Stat. 1661), for the construction of a Naval Reserve Center in Seattle, Washington, the Secretary of the Navy may carry out—

(1) a military construction project for the construction of an addition to the Naval Reserve Center in Tacoma, Washington, in the total amount of \$4,200,000;

(2) unspecified minor construction at Naval Reserve facilities in the total amount of \$500,000; and

(3) planning and design activities with respect to improvements at Naval Reserve facilities in the total amount of \$500,000.

**SEC. 2603. UPGRADE AIR NATIONAL GUARD FACILITIES, BANGOR INTERNATIONAL AIRPORT, MAINE.**

(a) **PROJECT AUTHORIZED.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2601(3)(A) and amounts appropriated pursuant to authorizations of appropriations enacted after the date of the enactment of this Act, the Secretary of the Air Force may carry out a construction project to upgrade Air National Guard base and support facilities at Bangor International Airport, Maine. The Secretary may contract for architectural and engineering services and construction design services in connection with the construction project.

(b) **LIMITATION ON TOTAL COST OF PROJECT.**—The total cost of the construction project authorized by subsection (a) may not exceed \$13,000,000.

(c) **FISCAL YEAR 1997 FUNDING.**—Of the amount authorized to be appropriated in section 2601(3)(A), \$7,000,000 shall be available to carry out the construction project authorized by subsection (a).

## **TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS**

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 1994 projects.

Sec. 2703. Extension of authorizations of certain fiscal year 1993 projects.

Sec. 2704. Extension of authorizations of certain fiscal year 1992 projects.

Sec. 2705. Effective date.

**SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.**

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1999; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2000.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1999; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2000 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

**SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1994 PROJECTS.**

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1994 (division of Public Law 103-160; 107 Stat. 1880), authorizations for projects set forth in the tables in subsection (b), as provided in section 2101, 2102, 2201, 2301, or 2601 of that Act, shall remain in effect until October 1, 1997, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Army: Extension of 1994 Project Authorizations**

State	Installation or location	Project	Amount
New Jersey .....	Picatinny Arsenal .....	Advance Warhead Development Facility .....	\$4,400
North Carolina .....	Fort Bragg .....	Land Acquisition .....	\$15,000
Wisconsin .....	Fort McCoy .....	Family Housing Construction (16 units) .....	\$2,950

**Navy: Extension of 1994 Project Authorizations**

State or location	Installation or location	Project	Amount
California .....	Camp Pendleton Marine Corps Base .....	Sewage Facility ....	\$7,930,000
Connecticut .....	New London Naval Submarine Base .....	Hazardous Waste Transfer Facility	\$1,450,000
New Jersey .....	Earle Naval Weapons Station .....	Explosives Holding Yard .....	\$1,290,000
Virginia .....	Oceana Naval Air Station .....	Jet Engine Test Cell Replacement .....	\$5,300,000
Various Locations	Various Locations .....	Land Acquisition Inside the United States .....	\$540,000
Various Locations	Various Locations .....	Land Acquisition Outside the United States ....	\$800,000

**Air Force: Extension of 1994 Project Authorizations**

State	Installation or location	Project	Amount
Alaska .....	Elmendorf Air Force Base .....	Upgrade Water Treatment Plant	\$3,750,000
	Elmendorf Air Force Base .....	Corrosion Control Facility .....	\$5,975,000
California .....	Beale Air Force Base	Educational Center .....	\$3,150,000
Florida .....	Tyndall Air Force Base.	Base Supply Logistics Center .....	\$2,600,000
Mississippi .....	Keesler Air Force Base.	Upgrade Student Dormitory .....	\$4,500,000
North Carolina ....	Pope Air Force Base ...	Add To and Alter Dormitories .....	\$4,300,000
Virginia .....	Langley Air Force Base .....	Fire Station .....	\$3,850,000

**Army National Guard: Extension of 1994 Project Authorizations**

State	Installation or location	Project	Amount
Alabama .....	Birmingham .....	Aviation Support Facility .....	\$4,907,000

**Army National Guard: Extension of 1994 Project  
Authorizations—Continued**

State	Installation or location	Project	Amount
Arizona .....	Marana .....	Organizational Maintenance Shop .....	\$553,000
	Marana .....	Dormitory/Dining Facility .....	\$2,919,000
California .....	Fresno .....	Organizational Maintenance Shop Modification .....	\$905,000
	Van Nuys .....	Armory Addition	\$6,518,000
New Mexico .....	White Sands Missile Range .....	Organizational Maintenance Shop .....	\$2,940,000
		Tactical Site .....	\$1,995,000
Pennsylvania .....	Indiantown Gap .....	MATES .....	\$3,570,000
		State Military Building .....	\$9,200,000
	Johnstown .....	Armory Addition/Flight Facility ...	\$5,004,000
	Johnstown .....	Armory .....	\$3,000,000
South Carolina .....	Summerville .....	Organizational Maintenance Shop .....	\$834,000

**SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1993 PROJECTS.**

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1993 (division of Public Law 102-484; 106 Stat. 2602), authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2301, or 1601 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 541), shall remain in effect until October 1, 1997, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Army: Extension of 1993 Project Authorization**

State	Installation or location	Project	Amount
Arkansas .....	Pine Bluff Arsenal .....	Ammunition Demilitarization Support Facility .....	\$15,000,000

**Air Force: Extension of 1993 Project Authorization**

Country	Installation or location	Project	Amount
Portugal .....	Lajes Field .....	Water Wells .....	\$865,000

**Army National Guard: Extension of 1993 Project Authorizations**

State	Installation or location	Project	Amount
Alabama .....	Tuscaloosa .....	Armory .....	\$2,273,000
	Union Springs .....	Armory .....	\$813,000
New Mexico .....	Clayton .....	Armory .....	\$1,400,000

**SEC. 2704. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1992 PROJECTS.**

(a) **EXTENSIONS.**—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102-190; 105 Stat. 1535), authorizations for the projects set forth in the table in subsection (b), as provided in section 2201 of that Act and extended by section 2702(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3047) and section 2703(a) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 543), shall remain in effect until October 1, 1997, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998, whichever is later.

(b) **TABLE.**—The table referred to in subsection (a) is as follows:

**Army: Extension of 1992 Project Authorizations**

State	Installation or location	Project	Amount
Oregon .....	Umatilla Army Depot	Ammunition Demilitarization Support Facility .....	\$3,600,000
	Umatilla Army Depot	Ammunition Demilitarization Utilities .....	\$7,500,000

**SEC. 2705. EFFECTIVE DATE.**

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

- (1) October 1, 1996; or
- (2) the date of the enactment of this Act.

## TITLE XXVIII—GENERAL PROVISIONS

### Subtitle A—Military Construction Program and Military Family Housing Changes

- Sec. 2801. Increase in certain thresholds for unspecified minor construction projects.
- Sec. 2802. Redesignation of North Atlantic Treaty Organization Infrastructure program.
- Sec. 2803. Improvements to family housing units.
- Sec. 2804. Availability of funds for planning, execution, and administration of contracts for family housing and unaccompanied housing.

### Subtitle B—Defense Base Closure and Realignment

- Sec. 2811. Restoration of authority for certain intragovernment transfers under 1988 base closure law.
- Sec. 2812. Contracting for certain services at facilities remaining on closed installations.
- Sec. 2813. Authority to compensate owners of manufactured housing.
- Sec. 2814. Additional purpose for which adjustment and diversification assistance is authorized.
- Sec. 2815. Payment of stipulated penalties assessed under CERCLA in connection with Loring Air Force Base, Maine.
- Sec. 2816. Plan for utilization, reutilization, or disposal of Mississippi Army Ammunition Plant.

### Subtitle C—Land Conveyances

#### PART I—ARMY CONVEYANCES

- Sec. 2821. Transfer of lands, Arlington National Cemetery, Arlington, Virginia.
- Sec. 2822. Land transfer, Fort Sill, Oklahoma.
- Sec. 2823. Land conveyance, Army Reserve Center, Rushville, Indiana.
- Sec. 2824. Land conveyance, Army Reserve Center, Anderson, South Carolina.
- Sec. 2825. Land conveyance, Army Reserve Center, Montpelier, Vermont.
- Sec. 2826. Land conveyance, Crafts Brothers Reserve Training Center, Manchester, New Hampshire.
- Sec. 2827. Land conveyance, Pine Bluff Arsenal, Arkansas.
- Sec. 2828. Reaffirmation of land conveyances, Fort Sheridan, Illinois.

#### PART II—NAVY CONVEYANCES

- Sec. 2831. Land transfer, Potomac Annex, District of Columbia.
- Sec. 2832. Land exchange, St. Helena Annex, Norfolk Naval Shipyard, Virginia.
- Sec. 2833. Land conveyance, Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, Calverton, New York.
- Sec. 2834. Land conveyance, former naval reserve facility, Lewes, Delaware.
- Sec. 2835. Modification of land conveyance authority, Naval Reserve Center, Seattle, Washington.
- Sec. 2836. Release of condition on reconveyance of transferred land, Guam.
- Sec. 2837. Lease to facilitate construction of reserve center, Naval Air Station, Meridian, Mississippi.

#### PART III—AIR FORCE CONVEYANCES

- Sec. 2841. Land conveyance, Radar Bomb Scoring Site, Belle Fourche, South Dakota.
- Sec. 2842. Conveyance of primate research complex and Air Force-owned chimpanzees, Holloman Air Force Base, New Mexico.

#### PART IV—OTHER CONVEYANCES

- Sec. 2851. Land conveyance, Tatum Salt Dome Test Site, Mississippi.
- Sec. 2852. Land conveyance, William Langer Jewel Bearing Plant, Rolla, North Dakota.
- Sec. 2853. Land conveyance, Air Force Plant No. 85, Columbus, Ohio.
- Sec. 2854. Modification of boundaries of White Sands National Monument and White Sands Missile Range.

### Subtitle D—Other Matters

- Sec. 2861. Authority to grant easements for rights-of-way.
- Sec. 2862. Authority to enter into cooperative agreements for the management of cultural resources on military installations.

- Sec. 2863. Demonstration project for installation and operation of electric power distribution system at Youngstown Air Reserve Station, Ohio.
- Sec. 2864. Renovation of the Pentagon reservation.
- Sec. 2865. Plan for repairs and stabilization of the historic district at the Forest Glen Annex of Walter Reed Medical Center, Maryland.
- Sec. 2866. Naming of range at Camp Shelby, Mississippi.
- Sec. 2867. Designation of Michael O'Callaghan military hospital.
- Sec. 2868. Naming of building at the Uniformed Services University of the Health Sciences.

## Subtitle A—Military Construction Program and Military Family Housing Changes

### SEC. 2801. INCREASE IN CERTAIN THRESHOLDS FOR UNSPECIFIED MINOR CONSTRUCTION PROJECTS.

(a) O&M FUNDING FOR PROJECTS.—Section 2805(c)(1)(B) of title 10, United States Code, is amended by striking out “\$300,000” and inserting in lieu thereof “\$500,000”.

(b) O&M FUNDING FOR RESERVE COMPONENT FACILITIES.—Subsection (b) of section 18233a of such title is amended by striking out “\$300,000” and inserting in lieu thereof “\$500,000”.

(c) NOTIFICATION FOR EXPENDITURES AND CONTRIBUTIONS FOR RESERVE COMPONENT FACILITIES.—Subsection (a)(1) of such section 18233a is amended by striking out “\$400,000” and inserting in lieu thereof “\$1,500,000”.

### SEC. 2802. REDESIGNATION OF NORTH ATLANTIC TREATY ORGANIZA- TION INFRASTRUCTURE PROGRAM.

(a) REDESIGNATION.—Subsection (b) of section 2806 of title 10, United States Code, is amended by striking out “North Atlantic Treaty Organization Infrastructure program” and inserting in lieu thereof “North Atlantic Treaty Organization Security Investment program”.

(b) REFERENCES.—Any reference to the North Atlantic Treaty Organization Infrastructure program in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the North Atlantic Treaty Organization Security Investment program.

(c) CLERICAL AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

**“§ 2806. Contributions for North Atlantic Treaty Organiza-  
tions Security Investment”.**

(2) The table of sections at the beginning of subchapter I of chapter 169 of title 10, United States Code, is amended by striking out the item relating to section 2806 and inserting in lieu thereof the following new item:

“2806. Contributions for North Atlantic Treaty Organizations Security Investment.”.

(d) CONFORMING AMENDMENTS.—(1) Section 2861(b)(3) of title 10, United States Code, is amended by striking out “North Atlantic Treaty Organization Infrastructure program” and inserting in lieu thereof “North Atlantic Treaty Organization Security Investment program”.

(2) Section 21(h)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(h)(1)(B)) is amended by striking out “North Atlantic Treaty Organization Infrastructure Program” and inserting in lieu

10 USC 2806  
note.

thereof “North Atlantic Treaty Organization Security Investment program”.

**SEC. 2803. IMPROVEMENTS TO FAMILY HOUSING UNITS.**

(a) **AUTHORIZED IMPROVEMENTS.**—Subsection (a)(2) of section 2825 of title 10, United States Code, is amended—

(1) by inserting “major” before “maintenance”; and

(2) by adding at the end the following: “Such term does not include day-to-day maintenance and repair work.”.

(b) **LIMITATION.**—Subsection (b) of such section is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

“(2) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall include as part of the cost of the improvement of the unit or units concerned the following:

“(A) The cost of major maintenance or repair work undertaken in connection with the improvement.

“(B) Any cost, other than the cost of activities undertaken beyond a distance of five feet from the unit or units concerned, in connection with—

“(i) the furnishing of electricity, gas, water, and sewage disposal;

“(ii) the construction or repair of roads, drives, and walks; and

“(iii) grading and drainage work.”.

**SEC. 2804. AVAILABILITY OF FUNDS FOR PLANNING, EXECUTION, AND ADMINISTRATION OF CONTRACTS FOR FAMILY HOUSING AND UNACCOMPANIED HOUSING.**

(a) **CONTRACTS FOR FAMILY HOUSING.**—Paragraph (1) of section 2883(d) of title 10, United States Code, is amended by adding at the end the following: “The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.”.

(b) **CONTRACTS FOR UNACCOMPANIED HOUSING.**—Paragraph (2) of such section is amended by adding at the end the following: “The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.”.

## **Subtitle B—Defense Base Closure and Realignment**

**SEC. 2811. RESTORATION OF AUTHORITY FOR CERTAIN INTRA-GOVERNMENT TRANSFERS UNDER 1988 BASE CLOSURE LAW.**

Section 204(b)(2) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):



“(D) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this title, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.”.

**SEC. 2812. CONTRACTING FOR CERTAIN SERVICES AT FACILITIES REMAINING ON CLOSED INSTALLATIONS.**

(a) 1988 LAW.—Section 204(b)(8)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended by inserting “, or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this title,” after “under this title”.

(b) 1990 LAW.—Section 2905(b)(8)(A) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by inserting “, or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this part,” after “under this part”.

**SEC. 2813. AUTHORITY TO COMPENSATE OWNERS OF MANUFACTURED HOUSING.**

(a) 1988 LAW.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), is amended by adding at the end the following new subsection:

“(f) ACQUISITION OF MANUFACTURED HOUSING.—(1) In closing or realigning any military installation under this title, the Secretary may purchase any or all right, title, and interest of a member of the Armed Forces and any spouse of the member in manufactured housing located at a manufactured housing park established at an installation closed or realigned under this title, or make a payment to the member to relocate the manufactured housing to a suitable new site, if the Secretary determines that—

“(A) it is in the best interests of the Federal Government to eliminate or relocate the manufactured housing park; and

“(B) the elimination or relocation of the manufactured housing park would result in an unreasonable financial hardship to the owners of the manufactured housing.

“(2) Any payment made under this subsection shall not exceed 90 percent of the purchase price of the manufactured housing, as paid by the member or any spouse of the member, plus the cost of any permanent improvements subsequently made to the manufactured housing by the member or spouse of the member.

“(3) The Secretary shall dispose of manufactured housing acquired under this subsection through resale, donation, trade or otherwise within one year of acquisition.”.

(b) 1990 LAW.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), is amended by adding at the end the following new subsection:

“(g) ACQUISITION OF MANUFACTURED HOUSING.—(1) In closing or realigning any military installation under this part, the Secretary may purchase any or all right, title, and interest of a member of the Armed Forces and any spouse of the member in manufactured housing located at a manufactured housing park established at an installation closed or realigned under this part, or make a

payment to the member to relocate the manufactured housing to a suitable new site, if the Secretary determines that—

“(A) it is in the best interests of the Federal Government to eliminate or relocate the manufactured housing park; and

“(B) the elimination or relocation of the manufactured housing park would result in an unreasonable financial hardship to the owners of the manufactured housing.

“(2) Any payment made under this subsection shall not exceed 90 percent of the purchase price of the manufactured housing, as paid by the member or any spouse of the member, plus the cost of any permanent improvements subsequently made to the manufactured housing by the member or spouse of the member.

“(3) The Secretary shall dispose of manufactured housing acquired under this subsection through resale, donation, trade or otherwise within one year of acquisition.”

**SEC. 2814. ADDITIONAL PURPOSE FOR WHICH ADJUSTMENT AND DIVERSIFICATION ASSISTANCE IS AUTHORIZED.**

Section 2391(b)(5) of title 10, United States Code, is amended—

(1) by inserting “(A)” after “(5)”; and

(2) by adding at the end the following new subparagraph:

“(B) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State in enhancing its capacities—

“(i) to assist communities, businesses, and workers adversely affected by an action described in paragraph (1);

“(ii) to support local adjustment and diversification initiatives; and

“(iii) to stimulate cooperation between statewide and local adjustment and diversification efforts.”

**SEC. 2815. PAYMENT OF STIPULATED PENALTIES ASSESSED UNDER CERCLA IN CONNECTION WITH LORING AIR FORCE BASE, MAINE.**

From amounts in the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), the Secretary of Defense may expend not more than \$50,000 to pay stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against Loring Air Force Base, Maine.

**SEC. 2816. PLAN FOR UTILIZATION, REUTILIZATION, OR DISPOSAL OF MISSISSIPPI ARMY AMMUNITION PLANT.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a plan for the utilization, reutilization, or disposal of the Mississippi Army Ammunition Plant, Hancock County, Mississippi.

## Subtitle C—Land Conveyances

### PART I—ARMY CONVEYANCES

#### SEC. 2821. TRANSFER OF LANDS, ARLINGTON NATIONAL CEMETERY, ARLINGTON, VIRGINIA.

(a) REQUIREMENT FOR SECRETARY OF INTERIOR TO TRANSFER CERTAIN SECTION 29 LANDS.—(1) Subject to paragraph (2), the Secretary of the Interior shall transfer to the Secretary of the Army administrative jurisdiction over the following lands located in section 29 of the National Park System at Arlington National Cemetery, Virginia:

(A) The lands known as the Arlington National Cemetery Interment Zone.

(B) All lands in the Robert E. Lee Memorial Preservation Zone, other than those lands in the Preservation Zone that the Secretary of the Interior determines must be retained because of the historical significance of such lands or for the maintenance of nearby lands or facilities.

(2)(A) The Secretary of the Interior may not make the transfer referred to in paragraph (1)(B) until 60 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(i) a summary of the document entitled “Cultural Landscape and Archaeological Study, Section 29, Arlington House, The Robert E. Lee Memorial”;

(ii) a summary of any environmental analysis required with respect to the transfer under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) an accounting of the effect of the transfer that satisfies the requirements of section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

(iv) the proposal of the Secretary and the Secretary of the Army setting forth the lands to be transferred and the general manner in which the Secretary of the Army will develop such lands after transfer.

(B) The Secretary of the Interior shall submit the information required under subparagraph (A) not later than October 31, 1997.

(3) The transfer of lands under paragraph (1) shall be carried out in accordance with the Interagency Agreement Between the Department of the Interior, the National Park Service, and the Department of the Army, dated February 22, 1995.

(4) The exact acreage and legal descriptions of the lands to be transferred under paragraph (1) shall be determined by surveys satisfactory to the Secretary of the Interior and the Secretary of the Army.

(b) REQUIREMENT FOR ADDITIONAL TRANSFERS.—(1) The Secretary of the Interior shall transfer to the Secretary of the Army administrative jurisdiction over a parcel of land, including any improvements thereon, consisting of approximately 2.43 acres, located in the Memorial Drive entrance area to Arlington National Cemetery.

(2)(A) The Secretary of the Army shall transfer to the Secretary of the Interior administrative jurisdiction over a parcel of land, including any improvements thereon, consisting of approximately

0.17 acres, located at Arlington National Cemetery, and known as the Old Administrative Building site. The site is part of the original reservation of Arlington National Cemetery.

(B) In connection with the transfer under subparagraph (A), the Secretary of the Army shall grant to the Secretary of the Interior a perpetual right of ingress and egress to the parcel transferred under that subparagraph.

(3) The exact acreage and legal descriptions of the lands to be transferred pursuant to this subsection shall be determined by surveys satisfactory to the Secretary of the Interior and the Secretary of the Army. The costs of such surveys shall be borne by the Secretary of the Army.

**SEC. 2822. LAND TRANSFER, FORT SILL, OKLAHOMA.**

(a) **TRANSFER OF LAND FOR NATIONAL CEMETERY.**—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property, including any improvements thereon, consisting of approximately 400 acres and comprising a portion of Fort Sill, Oklahoma.

(b) **USE OF PROPERTY.**—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as a national cemetery under chapter 24 of title 38, United States Code.

(c) **RETURN OF UNUSED PORTION.**—If the Secretary of Veterans Affairs determines that any portion of the real property transferred under subsection (a) is not needed for use as a national cemetery, the Secretary shall return such portion to the administrative jurisdiction of the Secretary of the Army.

(d) **LEGAL DESCRIPTION.**—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of the survey shall be borne by the Secretary of Veterans Affairs.

**SEC. 2823. LAND CONVEYANCE, ARMY RESERVE CENTER, RUSHVILLE, INDIANA.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the City of Rushville, Indiana (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located in Rushville, Indiana, and contains the Rushville Army Reserve Center.

(b) **CONDITION OF CONVEYANCE.**—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for the use and benefit of the Rushville Police Department.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2824. LAND CONVEYANCE, ARMY RESERVE CENTER, ANDERSON, SOUTH CAROLINA.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the County of Anderson, South Carolina (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 805 East Whitner Street in Anderson, South Carolina, and contains an Army Reserve Center.

(b) **CONDITION OF CONVEYANCE.**—The conveyance authorized under subsection (a) shall be subject to the condition that the County retain the conveyed property for the use and benefit of the Anderson County Department of Education.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2825. LAND CONVEYANCE, ARMY RESERVE CENTER, MONTPELIER, VERMONT.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the City of Montpelier, Vermont (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 4.3 acres and located on Route 2 in Montpelier, Vermont, the site of the Army Reserve Center, Montpelier, Vermont.

(b) **CONDITION.**—The conveyance authorized under subsection (a) shall be subject to the condition that the City agree to lease to the Civil Air Patrol, at no rental charge to the Civil Air Patrol, the portion of the real property and improvements located on the parcel to be conveyed that the Civil Air Patrol leases from the Secretary as of the date of the enactment of this Act.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2826. LAND CONVEYANCE, CRAFTS BROTHERS RESERVE TRAINING CENTER, MANCHESTER, NEW HAMPSHIRE.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to Saint Anselm College, Manchester, New Hampshire, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.5 acres and located on Rockland Avenue in Manchester, New Hampshire, the site of the Crafts Brothers Reserve Training Center.

(b) **REQUIREMENT RELATING TO CONVEYANCE.**—The Secretary may not make the conveyance authorized by subsection (a) until

the Army Reserve units currently housed at the Crafts Brothers Reserve Training Center are relocated to the Joint Service Reserve Center to be constructed at the Manchester Airport, New Hampshire.

(c) **REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.**—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2827. LAND CONVEYANCE, PINE BLUFF ARSENAL, ARKANSAS.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the Economic Development Alliance of Jefferson County, Arkansas (in this section referred to as the “Alliance”), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 1,500 acres and comprising a portion of the Pine Bluff Arsenal, Arkansas.

(b) **REQUIREMENTS RELATING TO CONVEYANCE.**—The Secretary may not carry out the conveyance of property authorized under subsection (a) until—

(1) the completion by the Secretary of any environmental restoration and remediation that is required with respect to the property under applicable law;

(2) the Secretary secures all permits required under law applicable regarding the conduct of the proposed chemical demilitarization mission at the arsenal; and

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a certification that the conveyance will not adversely affect the ability of the Department of Defense to conduct that chemical demilitarization mission.

(c) **CONDITIONS OF CONVEYANCE.**—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Alliance agree not to carry out any activities on the property to be conveyed that interfere with the construction, operation, and decommissioning of the chemical demilitarization facility to be constructed at Pine Bluff Arsenal. If the Alliance fails to comply with its agreement in paragraph (1) the property conveyed under this section, all rights, title, and interest in and to the property shall revert to the United States, and the United States shall have immediate rights of entry thereon.

(2) That the property be used during the 25-year period beginning on the date of the conveyance only as the site of the facility known as the “Bioplex”, and for activities related thereto.

(d) **COSTS OF CONVEYANCE.**—The Alliance shall be responsible for any costs of the Army associated with the conveyance of property

under this section, including administrative costs, the costs of an environmental baseline survey with respect to the property, and the cost of any protection services required by the Secretary in order to secure operations of the chemical demilitarization facility from activities on the property after the conveyance.

(e) REVERSIONARY INTERESTS.—If the Secretary determines at any time during the 25-year period referred to in subsection (c)(2) that the property conveyed under this section is not being used in accordance with that subsection, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have immediate right of entry thereon.

(f) SALE OF PROPERTY BY ALLIANCE.—If at any time during the 25-year period referred to in subsection (c)(2) the Alliance sells all or a portion of the property conveyed under this section, the Alliance shall pay the United States an amount equal to the lesser of—

(1) the amount of the sale of the property sold; or

(2) the fair market value of the property sold at the time of the sale, excluding the value of any improvements to the property sold that have been made by the Alliance.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Alliance.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

#### **SEC. 2828. REAFFIRMATION OF LAND CONVEYANCES, FORT SHERIDAN, ILLINOIS.**

As soon as practicable after the date of the enactment of this Act, the Secretary of the Army shall complete the land conveyances involving Fort Sheridan, Illinois, required or authorized under section 125 of the Military Construction Appropriations Act, 1996 (Public Law 104-32; 109 Stat. 290).

## **PART II—NAVY CONVEYANCES**

#### **SEC. 2831. LAND TRANSFER, POTOMAC ANNEX, DISTRICT OF COLUMBIA.**

(a) TRANSFER AUTHORIZED.—The Secretary of the Navy may transfer, without consideration other than the reimbursement provided for in subsection (d), to the United States Institute of Peace (in this section referred to as the “Institute”) administrative jurisdiction over a parcel of real property, including any improvements thereon, consisting of approximately 3 acres, at the northwest corner of Twenty-third Street and Constitution Avenue, Northwest, District of Columbia, the site of the Potomac Annex.

(b) CONDITION.—The Secretary may not make the transfer specified in subsection (a) unless the Institute agrees to provide the Navy a number of parking spaces at or in the vicinity of the headquarters to be constructed on the parcel transferred equal to the number of parking spaces available to the Navy on the parcel as of the date of the transfer.

(c) REQUIREMENT RELATING TO TRANSFER.—The transfer specified in subsection (a) may not occur until the Institute obtains

all permits, approvals, and site plan reviews required by law with respect to the construction on the parcel of a headquarters for operations of the Institute.

(d) **COSTS.**—The Institute shall reimburse the Secretary for the costs incurred by the Secretary in carrying out the transfer specified in subsection (a).

(e) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be transferred under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Institute.

**SEC. 2832. LAND EXCHANGE, ST. HELENA ANNEX, NORFOLK NAVAL SHIPYARD, VIRGINIA.**

(a) **CONVEYANCE AUTHORIZED.**—(1) The Secretary of the Navy may convey to such private person as the Secretary considers appropriate (in this section referred to as the “transferee”) all right, title, and interest of the United States in and to a parcel of real property that is located at the Norfolk Naval Shipyard, Virginia, and, as of the date of the enactment of this Act, is a portion of the property leased to the Norfolk Shipbuilding and Drydock Company pursuant to the Department of the Navy lease N00024-84-L-0004, effective October 1, 1984, as extended.

(2) Pending completion of the conveyance authorized by paragraph (1), the Secretary may lease the real property to the transferee upon such terms as the Secretary considers appropriate.

(b) **CONSIDERATION.**—As consideration for the conveyance under subsection (a), including any interim lease authorized by such subsection, the transferee shall—

(1) convey to the United States all right, title, and interest to a parcel or parcels of real property, together with any improvements thereon, located in the area of Portsmouth, Virginia, which are determined to be acceptable to the Secretary; and

(2) pay to the Secretary an amount equal to the amount, if any, by which the fair market value of the parcel conveyed by the Secretary under subsection (a) exceeds the fair market value of the parcel conveyed to the United States under paragraph (1).

(c) **USE OF RENTAL AMOUNTS.**—The Secretary may use the amounts received as rent from any lease entered into under the authority of subsection (a)(2) to fund environmental studies of the parcels of real property to be conveyed under this section.

(d) **IN-KIND CONSIDERATION.**—The Secretary and the transferee may agree that, in lieu of all or any part of the consideration required by subsection (b)(2), the transferee may provide and the Secretary may accept the improvement, maintenance, protection, repair, or restoration of real property under the control of the Secretary in the area of Hampton Roads, Virginia.

(e) **DETERMINATION OF FAIR MARKET VALUE AND PROPERTY DESCRIPTION.**—The Secretary shall determine the fair market value of the parcels of real property to be conveyed under subsections (a) and (b)(1). The exact acreage and legal description of the parcels shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the transferee.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with



the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2833. LAND CONVEYANCE, CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may convey, without consideration, to the Department of Environmental Conservation of the State of New York (in this section referred to as the “Department”), all right, title, and interest of the United States in and to the Calverton Pine Barrens located at the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(b) **EFFECT ON OTHER CONVEYANCE AUTHORITY.**—The conveyance authorized by this subsection shall not affect the transfer of jurisdiction of a portion of the Calverton Pine Barrens authorized by section 2865 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 576).

(c) **CONDITION OF CONVEYANCE.**—The conveyance under subsection (a) shall be subject to the condition that the Department agrees—

(1) to maintain the conveyed property as a nature preserve, as required by section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2626), as amended by section 2823 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3058);

(2) to designate the conveyed property as the “Otis G. Pike Preserve”; and

(3) to continue to allow the level of sporting activities on the conveyed property as permitted at the time of the conveyance.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Department.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) **CALVERTON PINE BARRENS DEFINED.**—In this section, the term “Calverton Pine Barrens” has the meaning given that term in section 2854(d)(1) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102-484; 106 Stat. 2626).

**SEC. 2834. LAND CONVEYANCE, FORMER NAVAL RESERVE FACILITY, LEWES, DELAWARE.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may convey, without consideration, to the State of Delaware (in this section referred to as the “State”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 16.8 acres at the site of the former Naval Reserve Facility, Lewes, Delaware.

(b) **CONDITION OF CONVEYANCE.**—The conveyance under subsection (a) shall be subject to the condition that the State use the real property conveyed under that subsection in perpetuity solely for public park or recreational purposes.

(c) **REVERSION.**—If the Secretary of the Navy determines at any time that the real property conveyed pursuant to this section is not being used for a purpose specified in subsection (b), all right, title, and interest in and to such real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of such survey shall be borne by the State.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2835. MODIFICATION OF LAND CONVEYANCE AUTHORITY, NAVAL RESERVE CENTER, SEATTLE, WASHINGTON.**

Paragraph (2) of section 127(d) of the Military Construction Appropriations Act, 1995 (Public Law 103-307; 108 Stat. 1666), is amended to read as follows:

“(2) Before commencing construction of a facility to be the replacement facility for the Naval Reserve Center under paragraph (1), the Secretary shall comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to such facility.”.

**SEC. 2836. RELEASE OF CONDITION ON RECONVEYANCE OF TRANSFERRED LAND, GUAM.**

(a) **IN GENERAL.**—Section 818(b)(2) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1782), relating to a condition on disposal by Guam of lands conveyed to Guam by the United States, shall have no force or effect and is repealed.

(b) **EXECUTION OF INSTRUMENTS.**—The Secretary of the Navy and the Administrator of General Services shall execute all instruments necessary to implement this section.

**SEC. 2837. LEASE TO FACILITATE CONSTRUCTION OF RESERVE CENTER, NAVAL AIR STATION, MERIDIAN, MISSISSIPPI.**

(a) **LEASE OF PROPERTY FOR CONSTRUCTION OF RESERVE CENTER.**—(1) The Secretary of the Navy may lease, without reimbursement, to the State of Mississippi (in this section referred to as the “State”), approximately five acres of real property located at Naval Air Station, Meridian, Mississippi. The State shall use the property to construct a reserve center of approximately 22,000 square feet and ancillary supporting facilities.

(2) The term of the lease under this subsection shall expire on the same date that the lease authorized by subsection (b) expires.

(b) **LEASEBACK OF RESERVE CENTER.**—(1) The Secretary may lease from the State the property and improvements constructed pursuant to subsection (a) for a five-year period. The term of the lease shall begin on the date on which the improvements are available for occupancy, as determined by the Secretary.

(2) Rental payments under the lease under paragraph (1) may not exceed \$200,000 per year, and the total amount of the rental payments for the entire period may not exceed 20 percent of the total cost of constructing the reserve center and ancillary supporting facilities.

(3) Subject to the availability of appropriations for this purpose, the Secretary may use funds appropriated pursuant to an authorization of appropriations for the operation and maintenance of the Naval Reserve to make rental payments required under this subsection.

(c) EFFECT OF TERMINATION OF LEASES.—At the end of the lease term under subsection (b), the State shall convey, without reimbursement, to the United States all right, title, and interest of the State in the reserve center and ancillary supporting facilities subject to the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the leases under this section as the Secretary considers appropriate to protect the interests of the United States.

### **PART III—AIR FORCE CONVEYANCES**

#### **SEC. 2841. LAND CONVEYANCE, RADAR BOMB SCORING SITE, BELLE FOURCHE, SOUTH DAKOTA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Belle Fourche School District, Belle Fourche, South Dakota (in this section referred to as the "District"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 37 acres located in Belle Fourche, South Dakota, which has served as the location of a support complex and housing facilities for Detachment 21 of the 554th Range Squadron, an Air Force Radar Bomb Scoring Site located in Belle Fourche, South Dakota. The conveyance may not include any portion of the radar bomb scoring site located in the State of Wyoming.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the District—

(1) use the property and facilities conveyed under such subsection for education, economic development, and housing purposes; or

(2) enter into an agreement with an appropriate public or private entity to sell or lease the property and facilities to such entity for such purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

#### **SEC. 2842. CONVEYANCE OF PRIMATE RESEARCH COMPLEX AND AIR FORCE-OWNED CHIMPANZEES, HOLLOMAN AIR FORCE BASE, NEW MEXICO.**

(a) DISPOSAL AUTHORIZED.—Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), or any regulations prescribed thereunder, the Secretary of the Air Force may dispose of all right, title, and interest of the United States in and to the primate research complex

at Holloman Air Force Base, New Mexico. The disposal may include the chimpanzees owned by the Air Force that are housed at or managed from the primate research complex. The disposal shall not include the underlying real property on which the primate research complex is located. The disposal of the primate research complex shall be at no cost to the Air Force.

(b) **COMPETITIVE, NEGOTIATED DISPOSAL PROCESS REQUIRED.**—The Secretary shall select the persons or entities to which the primate research complex and chimpanzees are to be disposed of under subsection (a) using a competitive, negotiated process.

(c) **STANDARDS TO BE USED IN SOLICITATION OF BIDS.**—The Secretary shall develop standards for the care and use of the primate research complex, and of the chimpanzees, to be used in soliciting bids for the disposal authorized by subsection (a). The Secretary shall develop such standards in consultation with the Secretary of Agriculture and the Director of the National Institutes of Health.

(d) **CONDITIONS OF DISPOSAL.**—The disposal authorized by subsection (a) shall be subject to the followings conditions:

(1) That a recipient of any chimpanzees—

(A) utilize such chimpanzees only for scientific research or medical research purposes; or

(B) retire and provide adequate care for such chimpanzees.

(2) That any recipient of chimpanzees, or the primate research complex, take such chimpanzees, or the primate research complex, subject to any existing leases or other encumbrances at the time of the disposal.

(e) **DESCRIPTION OF COMPLEX AND CHIMPANZEES.**—The exact legal description of the primate research complex and chimpanzees to be disposed of under subsection (a) shall be determined by a survey or other means satisfactory to the Secretary. The cost of any survey or other services performed at the direction of the Secretary under the authority in the preceding sentence shall be borne by the recipient of the property concerned.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the disposal under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

## **PART IV—OTHER CONVEYANCES**

### **SEC. 2851. LAND CONVEYANCE, TATUM SALT DOME TEST SITE, MISSISSIPPI.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of Energy may convey, without compensation, to the State of Mississippi (in this section referred to as the “State”) the property known as the Tatum Salt Dome Test Site, as generally depicted on the map of the Department of Energy numbered 301913.104.02 and dated June 25, 1993.

(b) **CONDITION ON CONVEYANCE.**—The conveyance under this section shall be subject to the condition that the State use the conveyed property as a wildlife refuge and working demonstration forest.

(c) **DESIGNATION.**—The property to be conveyed is hereby designated as the “Jamie Whitten Forest Management Area”.

(d) **RETAINED RIGHTS.**—The conveyance under this section shall be subject to each of the following rights to be retained by the United States:

(1) Retention by the United States of subsurface estates below the property conveyed.

(2) Retention by the United States of rights of access, by easement or otherwise, for such purposes as the Secretary considers appropriate, including access to monitoring wells for sampling.

(3) Retention by the United States of the right to install wells additional to those identified in the remediation plan for the property to the extent such additional wells are considered necessary by the Secretary to monitor potential pathways of contaminant migration. Such wells shall be in such locations as specified by the Secretary.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2852. LAND CONVEYANCE, WILLIAM LANGER JEWEL BEARING PLANT, ROLLA, NORTH DAKOTA.**

(a) **CONVEYANCE AUTHORIZED.**—The Administrator of General Services may convey, without consideration, to the Job Development Authority of the City of Rolla, North Dakota (in this section referred to as the “Authority”), all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon and all associated personal property, consisting of approximately 9.77 acres and comprising the William Langer Jewel Bearing Plant in Rolla, North Dakota.

(b) **CONDITION OF CONVEYANCE.**—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority—

(1) use the real and personal property and improvements conveyed under that subsection for economic development relating to the jewel bearing plant;

(2) enter into an agreement with an appropriate public or private entity or person to lease such property and improvements to that entity or person for such economic development; or

(3) enter into an agreement with an appropriate public or private entity or person to sell such property and improvements to that entity or person for such economic development.

(c) **PREFERENCE FOR DOMESTIC DISPOSAL OF JEWEL BEARINGS.**—

(1) In offering to enter into agreements pursuant to any provision of law for the disposal of jewel bearings from the National Defense Stockpile, the President shall give a right of first refusal on all such offers to the Authority or to the appropriate public or private entity or person with which the Authority enters into an agreement under subsection (b).

President.

(2) For the purposes of this section, the term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(c)).

(d) **AVAILABILITY OF FUNDS FOR MAINTENANCE AND CONVEYANCE OF PLANT.**—Notwithstanding any other provision of law, funds available under the Department of Defense Appropriations Act, 1995 (Public Law 103-335), in fiscal year 1995 for the maintenance

(d) **RETAINED RIGHTS.**—The conveyance under this section shall be subject to each of the following rights to be retained by the United States:

(1) Retention by the United States of subsurface estates below the property conveyed.

(2) Retention by the United States of rights of access, by easement or otherwise, for such purposes as the Secretary considers appropriate, including access to monitoring wells for sampling.

(3) Retention by the United States of the right to install wells additional to those identified in the remediation plan for the property to the extent such additional wells are considered necessary by the Secretary to monitor potential pathways of contaminant migration. Such wells shall be in such locations as specified by the Secretary.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2852. LAND CONVEYANCE, WILLIAM LANGER JEWEL BEARING PLANT, ROLLA, NORTH DAKOTA.**

(a) **CONVEYANCE AUTHORIZED.**—The Administrator of General Services may convey, without consideration, to the Job Development Authority of the City of Rolla, North Dakota (in this section referred to as the “Authority”), all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon and all associated personal property, consisting of approximately 9.77 acres and comprising the William Langer Jewel Bearing Plant in Rolla, North Dakota.

(b) **CONDITION OF CONVEYANCE.**—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority—

(1) use the real and personal property and improvements conveyed under that subsection for economic development relating to the jewel bearing plant;

(2) enter into an agreement with an appropriate public or private entity or person to lease such property and improvements to that entity or person for such economic development; or

(3) enter into an agreement with an appropriate public or private entity or person to sell such property and improvements to that entity or person for such economic development.

(c) **PREFERENCE FOR DOMESTIC DISPOSAL OF JEWEL BEARINGS.**—

(1) In offering to enter into agreements pursuant to any provision of law for the disposal of jewel bearings from the National Defense Stockpile, the President shall give a right of first refusal on all such offers to the Authority or to the appropriate public or private entity or person with which the Authority enters into an agreement under subsection (b).

President.

(2) For the purposes of this section, the term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(c)).

(d) **AVAILABILITY OF FUNDS FOR MAINTENANCE AND CONVEYANCE OF PLANT.**—Notwithstanding any other provision of law, funds available under the Department of Defense Appropriations Act, 1995 (Public Law 103-335), in fiscal year 1995 for the maintenance

of the William Langer Jewel Bearing Plant shall be available for the maintenance of the plant pending the conveyance of the plant and for the conveyance of the plant under this section.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the Administrator.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under this section as the Administrator determines appropriate to protect the interests of the United States.

**SEC. 2853. LAND CONVEYANCE, AIR FORCE PLANT NO. 85, COLUMBUS, OHIO.**

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of the Air Force may instruct the Administrator of General Services to convey, without consideration, to the Columbus Municipal Airport Authority (in this section referred to as the “Authority”) all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, at Air Force Plant No. 85, Columbus, Ohio, consisting of approximately 240 acres that—

(1) contains the land and buildings referred to as the “airport parcel” in the correspondence from the General Services Administration to the Authority dated April 30, 1996; and

(2) is located adjacent to the Port Columbus International Airport.

(b) EFFECT OF CHANGE IN ADMINISTRATIVE JURISDICTION.—If, on the date of the enactment of this Act, the Secretary of the Air Force does not have administrative jurisdiction over the property to be conveyed, the conveyance shall be made by the Federal official who has administrative jurisdiction over the parcel as of that date.

(c) REQUIREMENT FOR FEDERAL SCREENING.—The Federal official responsible for making the conveyance authorized in subsection (a) may not convey the property unless the Federal official determines, in consultation with the Administrator of General Services, that no department or agency of the Federal Government will accept the transfer of the property.

(d) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority use the conveyed property for public airport purposes.

(e) REVERSION.—If the Federal official making the conveyance under subsection (a) determines that any portion of the conveyed property is not being utilized in accordance with the condition in subsection (d), all right, title, and interest in and to such portion shall revert to the United States, and the United States shall have immediate right of entry thereon.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Federal official responsible for making the conveyance. The cost of the survey shall be borne by the Authority.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Federal official responsible for making the conveyance of property under subsection (a) may require such additional terms and conditions in connection

with the conveyance as such official considers appropriate to protect the interests of the United States.

**SEC. 2854. MODIFICATION OF BOUNDARIES OF WHITE SANDS NATIONAL MONUMENT AND WHITE SANDS MISSILE RANGE.** 16 USC 431 note.

(a) **TRANSFER OF LANDS BY SECRETARY OF ARMY.**—The Secretary of the Army may transfer to the administrative jurisdiction of the Secretary of the Interior the following lands as generally depicted on the map entitled “White Sands National Monument, Boundary Proposal”, numbered 142/80,061, and dated January 1994:

(1) Lands consisting of approximately 2,524 acres located within White Sands National Monument, New Mexico.

(2) Lands consisting of approximately 5,758 acres located within White Sands Missile Range, New Mexico, and abutting White Sands National Monument.

(b) **TRANSFER OF LANDS BY SECRETARY OF INTERIOR.**—The Secretary of the Interior may transfer to the administrative jurisdiction of the Secretary of the Army lands consisting of approximately 4,277 acres located in White Sands National Monument, which lands are generally depicted on the map referred to in subsection (a).

(c) **BOUNDARY MODIFICATIONS.**—(1) The Secretary of the Army and the Secretary of the Interior shall jointly modify the boundary of White Sands National Monument so as to include within the national monument the lands transferred under subsection (a) and to exclude from the national monument the lands transferred under subsection (b).

(2) The Secretary of the Army and the Secretary of the Interior shall jointly modify the boundary of White Sands Missile Range as to include within the missile range the lands transferred under subsection (b) and exclude from the missile range the lands transferred under subsection (a).

(d) **ADMINISTRATION OF TRANSFERRED LANDS.**—(1) The Secretary of the Interior shall administer the lands transferred to that Secretary under subsection (a) in accordance with the laws applicable to the White Sands National Monument.

(2) The Secretary of the Army shall administer the lands transferred to that Secretary under subsection (b) as part of White Sands Missile Range.

(3) The Secretary of the Army shall maintain control of the airspace above the lands transferred to that Secretary under subsection (b) and administer that airspace in a manner consistent with the use of such lands as part of White Sands Missile Range.

(e) **PUBLIC AVAILABILITY OF MAP OF MONUMENT.**—The Secretary of the Interior and the Secretary of the Army shall jointly prepare, and the Secretary of the Interior shall keep on file for public inspection in the headquarters of White Sands National Monument, a map showing the boundary of White Sands National Monument as modified by this section.

(f) **WAIVER OF LIMITATION UNDER PRIOR LAW.**—Notwithstanding section 303(b)(1) of the National Parks and Recreation Act of 1978 (Public Law 95-625; 92 Stat. 3476), land or an interest in land that was deleted from White Sands National Monument by section 301(19) of the Act (92 Stat. 3475) may, at the election of the Secretary of the Interior, be—



(1) exchanged for land owned by the State of New Mexico within the boundaries of any unit of the National Park System in the State of New Mexico;

(2) transferred to the jurisdiction of any other Federal agency without monetary consideration; or

(3) administered as public land.

## Subtitle D—Other Matters

### SEC. 2861. AUTHORITY TO GRANT EASEMENTS FOR RIGHTS-OF-WAY.

(a) EASEMENTS FOR ELECTRIC POLES AND LINES AND FOR COMMUNICATIONS LINES AND FACILITIES.—Section 2668(a) of title 10, United States Code, is amended—

(1) by striking out “and” at the end of paragraph (9);

(2) by redesignating paragraph (10) as paragraph (13); and

(3) by inserting after paragraph (9) the following new paragraphs:

“(10) poles and lines for the transmission or distribution of electric power;

“(11) poles and lines for the transmission or distribution of communications signals (including telephone and telegraph signals);

“(12) structures and facilities for the transmission, reception, and relay of such signals; and”.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (3), by striking out “, telephone lines, and telegraph lines,”; and

(2) in paragraph (13), as redesignated by subsection (a)(2), by striking out “or by the Act of March 4, 1911 (43 U.S.C. 961)”.

### SEC. 2862. AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS FOR THE MANAGEMENT OF CULTURAL RESOURCES ON MILITARY INSTALLATIONS.

(a) AGREEMENTS AUTHORIZED.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2683 the following new section:

#### “§ 2684. Cooperative agreements for management of cultural resources

“(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may enter into a cooperative agreement with a State or local government or other entity for the preservation, management, maintenance, and improvement of cultural resources on military installations and for the conduct of research regarding the cultural resources. Activities under the cooperative agreement shall be subject to the availability of funds to carry out the cooperative agreement.

“(b) APPLICATION OF OTHER LAWS.—Section 1535 and chapter 63 of title 31, United States Code, shall not apply to a cooperative agreement entered into under this section.

“(c) CULTURAL RESOURCE DEFINED.—In this section, the term ‘cultural resource’ means any of the following:

“(1) A building, structure, site, district, or object eligible for or included in the National Register of Historic Places

maintained under section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)).

“(2) Cultural items, as that term is defined in section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)).

“(3) An archaeological resource, as that term is defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)).

“(4) An archaeological artifact collection and associated records covered by section 79 of title 36, Code of Federal Regulations.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2683 the following new item:

“2684. Cooperative agreements for management of cultural resources.”.

**SEC. 2863. DEMONSTRATION PROJECT FOR INSTALLATION AND OPERATION OF ELECTRIC POWER DISTRIBUTION SYSTEM AT YOUNGSTOWN AIR RESERVE STATION, OHIO.**

(a) AUTHORITY.—The Secretary of the Air Force may carry out a demonstration project to assess the feasibility and advisability of permitting private entities to install, operate, and maintain electric power distribution systems at military installations. The Secretary shall carry out the demonstration project through an agreement under subsection (b).

(b) AGREEMENT.—(1) In order to carry out the demonstration project, the Secretary shall enter into an agreement with an electric utility or other company in the Youngstown, Ohio, area, consistent with State law, under which the utility or company installs, operates, and maintains (in a manner satisfactory to the Secretary and the utility or company) an electric power distribution system at Youngstown Air Reserve Station, Ohio.

(2) The Secretary may not enter into an agreement under this subsection until—

(A) the Secretary submits to Congress a report on the agreement to be entered into, including the costs to be incurred by the United States under the agreement; and

(B) a period of 30 days has elapsed from the date of the receipt of the report by the committees.

(c) LICENSES AND EASEMENTS.—In order to facilitate the installation, operation, and maintenance of the electric power distribution system under the agreement under subsection (b), the Secretary may grant the utility or company with which the Secretary enters into the agreement such licenses, easements, and rights-of-way, consistent with State law, as the Secretary and the utility or company jointly determine necessary for such purposes.

(d) OWNERSHIP OF SYSTEM.—The agreement between the Secretary and the utility or company under subsection (b) may provide that the utility or company shall own the electric power distribution system installed under the agreement.

(e) RATE.—The rate charged by the utility or company for providing or distributing electric power at Youngstown Air Reserve Station through the electric power distribution system installed under the agreement under subsection (b) shall be the rate established by the appropriate Federal or State regulatory authority.

(f) REPORTS.—Not later than February 1, 1997, and February 1 of each year following a year in which the Secretary carries

Reports.

out the demonstration project under this section, the Secretary shall submit to Congress a report on the project. The report shall include the Secretary's current assessment of the project and the recommendations, if any, of the Secretary of extending the authority with respect to the project to other facilities and installations of the Department of Defense.

(g) **FUNDING.**—In order to pay the costs of the United States under the agreement under subsection (b), the Secretary may use funds authorized to be appropriated by section 2601(3)(B) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 540) for the purpose of rebuilding the electric power distribution system at the Youngstown Air Reserve Station that were appropriated for that purpose by the Military Construction Appropriations Act, 1996 (Public Law 104-32; 109 Stat. 283), and that remain available for obligation for that purpose as of the date of the enactment of this Act.

(h) **APPLICATION OF OTHER LAW.**—Nothing in this section shall authorize actions which are inconsistent with Federal or State law.

(i) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in the agreement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2864. RENOVATION OF THE PENTAGON RESERVATION.**

The Secretary of Defense shall take such actions as are necessary to ensure that the total cost of the renovation of the Pentagon Reservation does not exceed \$1,118,000,000.

**SEC. 2865. PLAN FOR REPAIRS AND STABILIZATION OF THE HISTORIC DISTRICT AT THE FOREST GLEN ANNEX OF WALTER REED MEDICAL CENTER, MARYLAND.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a comprehensive plan for basic repairs and stabilization measures throughout the historic district at the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, together with funding options for the implementation of the plan.

**SEC. 2866. NAMING OF RANGE AT CAMP SHELBY, MISSISSIPPI.**

(a) **NAME.**—The Multi Purpose Range Complex (Heavy) at Camp Shelby, Mississippi, shall after the date of the enactment of this Act be known and designated as the "G.V. (Sonny) Montgomery Range". Any reference to such range in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the G. V. (Sonny) Montgomery Range.

(b) **EFFECTIVE DATE.**—Subsection (a) shall take effect at noon on January 3, 1997, or the first day on which G. V. (Sonny) Montgomery otherwise ceases to be a Member of the House of Representatives.

Nevada.

**SEC. 2867. DESIGNATION OF MICHAEL O'CALLAGHAN MILITARY HOSPITAL.**

(a) **DESIGNATION.**—The Nellis Federal Hospital, a Federal building located at 4700 North Las Vegas Boulevard, Las Vegas, Nevada, shall be known and designated as the "Michael O'Callaghan Military Hospital".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the “Michael O’Callaghan Military Hospital”.

**SEC. 2868. NAMING OF BUILDING AT THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.**

It is the sense of Congress that the Secretary of Defense should name Building A at the Uniformed Services University of the Health Sciences as the “David Packard Building”.

## **TITLE XXIX—MILITARY LAND WITHDRAWALS**

### **Subtitle A—Fort Carson-Pinon Canyon Military Lands Withdrawal**

- Sec. 2901. Short title.
- Sec. 2902. Withdrawal and reservation of lands at Fort Carson Military Reservation.
- Sec. 2903. Withdrawal and reservation of lands at Pinon Canyon Maneuver Site.
- Sec. 2904. Maps and legal descriptions.
- Sec. 2905. Management of withdrawn lands.
- Sec. 2906. Management of withdrawn and acquired mineral resources.
- Sec. 2907. Hunting, fishing, and trapping.
- Sec. 2908. Termination of withdrawal and reservation.
- Sec. 2909. Determination of presence of contamination and effect of contamination.
- Sec. 2910. Delegation.
- Sec. 2911. Hold harmless.
- Sec. 2912. Amendment to Military Lands Withdrawal Act of 1986.
- Sec. 2913. Authorization of appropriations.

### **Subtitle B—El Centro Naval Air Facility Ranges Withdrawal**

- Sec. 2921. Short title and definitions.
- Sec. 2922. Withdrawal and reservation of lands for El Centro.
- Sec. 2923. Maps and legal descriptions.
- Sec. 2924. Management of withdrawn lands.
- Sec. 2925. Duration of withdrawal and reservation.
- Sec. 2926. Continuation of ongoing decontamination activities.
- Sec. 2927. Requirements for extension.
- Sec. 2928. Early relinquishment of withdrawal.
- Sec. 2929. Delegation of authority.
- Sec. 2930. Hunting, fishing, and trapping.
- Sec. 2931. Hold harmless.

### **Subtitle A—Fort Carson-Pinon Canyon Military Lands Withdrawal**

Fort Carson-  
Pinon Canyon  
Military Lands  
Withdrawal Act.

**SEC. 2901. SHORT TITLE.**

This subtitle may be cited as the “Fort Carson-Pinon Canyon Military Lands Withdrawal Act”.

**SEC. 2902. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.**

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this subtitle, the lands at the Fort Carson Military Reservation, Colorado, that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) **LAND DESCRIPTION.**—The lands referred to in subsection (a) comprise 3,133.02 acres of public land and 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated February 6, 1992, and published in accordance with section 2904.

#### **SEC. 2903. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.**

(a) **WITHDRAWAL.**—Subject to valid existing rights and except as otherwise provided in this subtitle, the lands at the Pinon Canyon Maneuver Site, Colorado, that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) **RESERVATION.**—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) **LAND DESCRIPTION.**—The lands referred to in subsection (a) comprise 2,517.12 acres of public lands and 130,139 acres of federally-owned minerals in Las Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon site", dated February 6, 1992, and published in accordance with section 2904.

#### **SEC. 2904. MAPS AND LEGAL DESCRIPTIONS.**

Federal Register,  
publication.

(a) **PREPARATION OF MAPS AND LEGAL DESCRIPTION.**—As soon as practicable after the date of the enactment of this subtitle, the Secretary of the Interior shall prepare maps depicting the lands withdrawn and reserved by this subtitle and publish in the Federal Register a notice containing the legal description of such lands.

(b) **LEGAL EFFECT.**—Such maps and legal descriptions shall have the same force and effect as if they were included in this subtitle, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) **AVAILABILITY OF MAPS AND LEGAL DESCRIPTION.**—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management and in the offices of the Commander of Fort Carson, Colorado.

(d) **COSTS.**—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

#### **SEC. 2905. MANAGEMENT OF WITHDRAWN LANDS.**

(a) **MANAGEMENT GUIDELINES.**—

(1) **MANAGEMENT BY SECRETARY OF THE ARMY.**—Except as provided in section 2906, during the period of withdrawal, the Secretary of the Army shall manage for military purposes the lands covered by this subtitle and may authorize use of the lands by the other military departments and agencies

of the Department of Defense, and the National Guard, as appropriate.

(2) ACCESS RESTRICTIONS.—When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads and trails on the lands withdrawn by this subtitle commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) SUPPRESSION OF FIRES.—The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this section shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—

(1) DEVELOPMENT REQUIRED.—The Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2902 and 2903 for the period of withdrawal. The plan shall—

(A) be consistent with applicable law;

(B) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands; and

(C) identify those withdrawn and acquired lands, if any, which are to be open to mining or mineral and geothermal leasing, including mineral materials disposal.

(2) TIME FOR DEVELOPMENT.—The management plan required by this subsection shall be developed not later than 5 years after the date of the enactment of this subtitle.

(c) IMPLEMENTATION OF MANAGEMENT PLAN.—

(1) MEMORANDUM OF UNDERSTANDING REQUIRED.—The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan developed under subsection (b).

(2) DURATION.—The duration of any such memorandum of understanding shall be the same as the period of withdrawal specified in section 2908(a).

(3) AMENDMENT.—The memorandum of understanding may be amended by agreement of both Secretaries.

(d) USE OF CERTAIN RESOURCES.—The Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources from the lands withdrawn by this subtitle when the use of such resources is required for construction needs of the Fort Carson Reservation or Pinon Canyon Maneuver Site.

**SEC. 2906. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.**

Except as provided in section 2905(d), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Fort Carson Military Reservation and Pinon Canyon Maneuver Site in the same manner as provided in section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466) for mining and mineral leasing on certain lands withdrawn by that Act from all forms of appropriation under the public land laws.

**SEC. 2907. HUNTING, FISHING, AND TRAPPING.**

All hunting, fishing, and trapping on the lands withdrawn and reserved by this subtitle shall be conducted in accordance with section 2671 of title 10, United States Code.

**SEC. 2908. TERMINATION OF WITHDRAWAL AND RESERVATION.**

(a) **TERMINATION DATE.**—The withdrawal and reservation made by this subtitle shall terminate 15 years after the date of the enactment of this subtitle.

(b) **DETERMINATION OF CONTINUING MILITARY NEED.**—

(1) **DETERMINATION REQUIRED.**—At least three years before the termination under subsection (a) of the withdrawal and reservation established by this subtitle, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) **METHOD OF MAKING DETERMINATION.**—If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall—

(A) evaluate the environmental effects of renewal of such withdrawal and reservation;

(B) hold at least one public hearing in Colorado concerning such evaluation; and

(C) file, after completing the requirements of subparagraphs (A) and (B), an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses.

(3) **NOTIFICATION.**—The Secretary of the Interior shall notify the Congress concerning a filing under paragraph (3)(C).

(c) **EARLY RELINQUISHMENT OF WITHDRAWAL.**—If the Secretary of the Army concludes under subsection (b) that before the termination date established by subsection (a) there will be no military need for all or any part of the lands withdrawn and reserved by this subtitle, or if, during the period of withdrawal, the Secretary of the Army otherwise decides to relinquish any or all of the lands withdrawn and reserved under this subtitle, the Secretary of the Army shall file with the Secretary of the Interior a notice of intention to relinquish such lands.

(d) **ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.**—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, may revoke

the withdrawal and reservation established by this subtitle as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

- (1) terminate the withdrawal and reservation;
- (2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and
- (3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

**SEC. 2909. DETERMINATION OF PRESENCE OF CONTAMINATION AND EFFECT OF CONTAMINATION.**

**(a) DETERMINATION OF PRESENCE OF CONTAMINATION.—**

(1) **BEFORE RELINQUISHMENT NOTICE.**—Before filing a relinquishment notice under section 2908(c), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands to be relinquished are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the relinquishment notice. Copies of both the relinquishment notice and the determination under this subsection shall be published in the Federal Register by the Secretary of the Interior.

Federal Register,  
publication.

(2) **UPON TERMINATION OF WITHDRAWAL.**—At the expiration of the withdrawal period made by this Act, the Secretary of the Interior shall determine whether and to what extent the lands withdrawn by this subtitle are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws.

**(b) PROGRAM OF DECONTAMINATION.—**

(1) **IN GENERAL.**—Throughout the duration of the withdrawal and reservation made by this subtitle, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this subtitle at least at the level of effort carried out during fiscal year 1992.

(2) **DECONTAMINATION OF LANDS TO BE RELINQUISHED.**—In the case of lands subject to a relinquishment notice under section 2908(c) that are contaminated, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose if the Secretary of the Interior, in consultation with the Secretary of the Army, determines that—

(A) decontamination of the lands is practicable and economically feasible, taking into consideration the potential future use and value of the land; and

(B) upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws.

(c) **AUTHORITY OF SECRETARY OF THE INTERIOR TO REFUSE CONTAMINATED LANDS.**—The Secretary of the Interior shall not be required to accept lands proposed for relinquishment if the Secretary of the Army and the Secretary of the Interior conclude that—



(1) decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible;

(2) the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws; or

(3) insufficient funds are appropriated for the purpose of decontaminating the lands.

(d) EFFECT OF CONTINUED CONTAMINATION.—If the Secretary of the Interior declines under subsection (c) to accept jurisdiction of lands proposed for relinquishment or if the Secretary of the Interior determines under subsection (a)(2) that some of the lands withdrawn by this subtitle are contaminated to an extent that prevents opening the contaminated lands to operation of the public land laws—

(1) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken under paragraphs (1) and (2).

(e) EFFECT OF SUBSEQUENT DECONTAMINATION.—If the lands described in subsection (d) are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(f) EFFECT ON OTHER LAWS.—Nothing in this subtitle shall affect, or be construed to affect, the obligations of the Secretary of the Army, if any, to decontaminate lands withdrawn by this subtitle pursuant to applicable law, including the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

#### SEC. 2910. DELEGATION.

The functions of the Secretary of the Army under this subtitle may be delegated. The functions of the Secretary of the Interior under this subtitle may be delegated, except that the order referred to in section 2908(d) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

#### SEC. 2911. HOLD HARMLESS.

Any party conducting any mining, mineral, or geothermal leasing activity on lands comprising the Fort Carson Reservation or Pinon Canyon Maneuver Site shall indemnify the United States against any costs, fees, damages, or other liabilities (including costs of litigation) incurred by the United States and arising from or relating to such mining activities, including costs of mineral materials disposal, whether arising under the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Solid Waste Disposal Act, or otherwise.

**SEC. 2912. AMENDMENT TO MILITARY LANDS WITHDRAWAL ACT OF 1986.**

(a) **USE OF CERTAIN RESOURCES.**—Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3461) is amended by adding at the end the following new paragraph:

“(2) Subject to valid existing rights, the Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.”.

(b) **TECHNICAL CORRECTION.**—Section 9(b) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466) is amended by striking “section 7(f)” and inserting in lieu thereof “section 8(f)”.

**SEC. 2913. AUTHORIZATION OF APPROPRIATIONS.**

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

## **Subtitle B—El Centro Naval Air Facility Ranges Withdrawal**

El Centro Naval  
Air Facility  
Ranges  
Withdrawal Act.  
California.

**SEC. 2921. SHORT TITLE AND DEFINITIONS.**

(a) **SHORT TITLE.**—This subtitle may be cited as the “El Centro Naval Air Facility Ranges Withdrawal Act”.

(b) **DEFINITIONS.**—In this subtitle:

(1) The term “El Centro” means the Naval Air Facility, El Centro, California.

(2) The term “cooperative agreement” means the cooperative agreement entered into between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987, with regard to the defense-related uses of Federal lands to further the mission of El Centro.

(3) The term “relinquishment notice” means a notice of intention by the Secretary of the Navy under section 2928(a) to relinquish, before the termination date specified in section 2925, the withdrawal and reservation of certain lands withdrawn under this subtitle.

**SEC. 2922. WITHDRAWAL AND RESERVATION OF LANDS FOR EL CENTRO.**

(a) **WITHDRAWALS.**—Subject to valid existing rights, and except as otherwise provided in this subtitle, the Federal lands utilized in the mission of the Naval Air Facility, El Centro, California, that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing or geothermal leasing laws or the mineral materials sales laws.

(b) **RESERVATION.**—The lands withdrawn under subsection (a) are reserved for the use by the Secretary of the Navy—

(1) for defense-related purposes in accordance with the cooperative agreement; and

(2) subject to notice to the Secretary of the Interior under section 2924(e), for other defense-related purposes determined by the Secretary of the Navy.

(c) DESCRIPTION OF WITHDRAWN LANDS.—The lands withdrawn and reserved under subsection (a) are—

(1) the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted in part on a map entitled “Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa)” and dated March 1993 and in part on a map entitled “Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)” and dated March 1993; and

(2) and all other areas within the boundaries of such lands as depicted on such maps that may become subject to the operation of the public land laws.

#### SEC. 2923. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENTS.—As soon as practicable after the date of the enactment of this subtitle, the Secretary of the Interior shall—

Federal Register,  
publication.

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved under this subtitle; and

(2) file maps and the legal description of the lands withdrawn and reserved under this subtitle with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) LEGAL EFFECT.—The maps and legal description prepared under subsection (a) shall have the same force and effect as if they were included in this subtitle, except that the Secretary of the Interior may correct clerical and typographical errors in the maps and legal description.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of the maps and legal description prepared under subsection (a) shall be available for public inspection in—

(1) the Office of the State Director, California State Office of the Bureau of Land Management, Sacramento, California;

(2) the Office of the District Manager, California Desert District of the Bureau of Land Management, Riverside, California; and

(3) the Office of the Commanding Officer, Marine Corps Air Station, Yuma, Arizona.

(d) REIMBURSEMENT.—The Secretary of Navy shall reimburse the Secretary of the Interior for the cost of implementing this section.

#### SEC. 2924. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT CONSISTENT WITH COOPERATIVE AGREEMENT.—The lands and resources shall be managed in accordance with the cooperative agreement, revised as necessary to conform to the provisions of this subtitle. The parties to the cooperative agreement shall review the cooperative agreement for conformance with this subtitle and amend the cooperative agreement, if appropriate, within 120 days after the date of the enactment of this subtitle. The term of the cooperative agreement shall be amended so that its duration is at least equal to the duration of the withdrawal made by section 2925. The cooperative agreement may be reviewed and amended by the managing agencies as necessary.

(b) MANAGEMENT BY SECRETARY OF THE INTERIOR.—

(1) GENERAL MANAGEMENT AUTHORITY.—During the period of withdrawal, the Secretary of the Interior shall manage the lands withdrawn and reserved under this subtitle pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws, including this subtitle.

(2) SPECIFIC AUTHORITIES.—To the extent consistent with applicable laws, Executive orders, and the cooperative agreement, the lands withdrawn and reserved under this subtitle may be managed in a manner permitting—

(A) protection of wildlife and wildlife habitat;

(B) control of predatory and other animals;

(C) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(D) geothermal leasing and development and related power production, mineral leasing and development, and mineral material sales.

(3) EFFECT OF WITHDRAWAL.—The Secretary of the Interior shall manage the lands withdrawn and reserved under this subtitle, in coordination with the Secretary of the Navy, such that all nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in the cooperative agreement or authorized pursuant to this subtitle.

(c) CERTAIN ACTIVITIES SUBJECT TO CONCURRENCE OF NAVY.—The Secretary of the Interior may issue a lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of the withdrawn lands only with the concurrence of the Secretary of the Navy and under the terms of the cooperative agreement.

(d) ACCESS RESTRICTIONS.—If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn under this subtitle, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure. Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection. Before and during any closure under this subsection, the Secretary of the Navy shall keep appropriate warning notices posted and take appropriate steps to notify the public concerning such closures.

Notification.

(e) ADDITIONAL MILITARY USES.—Lands withdrawn under this subtitle may be used for defense-related uses other than those specified in the cooperative agreement. The Secretary of the Navy shall promptly notify the Secretary of the Interior in the event that the lands withdrawn under this subtitle will be used for additional defense-related purposes. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted non-military uses of all or any portion of the withdrawn lands.

Notification.

**SEC. 2925. DURATION OF WITHDRAWAL AND RESERVATION.**

The withdrawal and reservation made under this subtitle shall terminate 25 years after the date of the enactment of this subtitle.

**SEC. 2926. CONTINUATION OF ONGOING DECONTAMINATION ACTIVITIES.**

Throughout the duration of the withdrawal and reservation made under this subtitle, and subject to the availability of funds, the Secretary of the Navy shall maintain a program of decontamination of the lands withdrawn under this subtitle at least at the level of decontamination activities performed on such lands in fiscal year 1995. Such activities shall be subject to applicable laws, such as the amendments made by the Federal Facility Compliance Act of 1992 (Public Law 102-386; 106 Stat. 1505) and the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code.

**SEC. 2927. REQUIREMENTS FOR EXTENSION.**

(a) NOTICE OF CONTINUED MILITARY NEED.—Not later than five years before the termination date specified in section 2925, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Navy will have a continuing military need for any or all of the lands withdrawn and reserved under this subtitle after the termination date.

(b) APPLICATION FOR EXTENSION.—If the Secretary of the Navy determines that there will be a continuing military need for any or all of the withdrawn lands after the termination date specified in section 2925, the Secretary of the Navy shall file an application for extension of the withdrawal and reservation of the lands in accordance with the then existing regulations and procedures of the Department of the Interior applicable to extension of withdrawal of lands for military purposes and that are consistent with this subtitle. Such application shall be filed with the Department of the Interior not later than four years before the termination date.

(c) EXTENSION PROCESS.—The withdrawal and reservation established by this subtitle may not be extended except by an Act or Joint Resolution of Congress.

**SEC. 2928. EARLY RELINQUISHMENT OF WITHDRAWAL.**

(a) FILING OF RELINQUISHMENT NOTICE.—If, during the period of withdrawal and reservation specified in section 2925, the Secretary of the Navy decides to relinquish all or any portion of the lands withdrawn and reserved under this subtitle, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) DETERMINATION OF PRESENCE OF CONTAMINATION.—Before transmitting a relinquishment notice under subsection (a), the Secretary of the Navy, in consultation with the Secretary of the Interior, shall prepare a written determination concerning whether and to what extent the lands to be relinquished are contaminated with explosive, toxic, or other hazardous wastes and substances. A copy of such determination shall be transmitted with the relinquishment notice.

(c) DECONTAMINATION AND REMEDIATION.—In the case of contaminated lands which are the subject of a relinquishment notice, the Secretary of the Navy shall decontaminate or remediate the land to the extent that funds are appropriated for such purpose

if the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that—

(1) decontamination or remediation of the lands is practicable and economically feasible, taking into consideration the potential future use and value of the land; and

(2) upon decontamination or remediation, the land could be opened to the operation of some or all of the public land laws, including the mining laws.

(d) DECONTAMINATION AND REMEDIATION ACTIVITIES SUBJECT TO OTHER LAWS.—The activities of the Secretary of the Navy under subsection (c) are subject to applicable laws and regulations, including the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(e) AUTHORITY OF SECRETARY OF THE INTERIOR TO REFUSE CONTAMINATED LANDS.—The Secretary of the Interior shall not be required to accept lands specified in a relinquishment notice if the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that—

(1) decontamination or remediation of any land subject to the relinquishment notice is not practicable or economically feasible;

(2) the land cannot be decontaminated or remediated sufficiently to be opened to operation of some or all of the public land laws; or

(3) a sufficient amount of funds are not appropriated for the decontamination of the land.

(f) STATUS OF CONTAMINATED LANDS.—If, because of the condition of the lands, the Secretary of the Interior declines to accept jurisdiction of lands proposed for relinquishment or, if at the expiration of the withdrawal made under this subtitle, the Secretary of the Interior determines that some of the lands withdrawn under this subtitle are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands; Safety.

(2) after the expiration of the withdrawal, the Secretary of the Navy shall retain jurisdiction over the withdrawn lands, but shall undertake no activities on such lands except in connection with the decontamination or remediation of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken under paragraphs (1) and (2). Reports.

(g) SUBSEQUENT DECONTAMINATION OR REMEDIATION.—If lands covered by subsection (f) are subsequently decontaminated or remediated and the Secretary of the Navy certifies that the lands are safe for nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(h) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, upon deciding that it is in the public interest to accept jurisdiction over lands specified in a relinquishment notice, the Secretary of the Interior may revoke the withdrawal and

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publication.

reservation made under this subtitle as it applies to such lands. If the decision be made to accept the relinquishment and to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

- (1) terminate the withdrawal and reservation;
- (2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and
- (3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws, if appropriate.

#### **SEC. 2929. DELEGATION OF AUTHORITY.**

(a) DEPARTMENT OF THE NAVY.—The functions of the Secretary of the Navy under this subtitle may be delegated.

(b) DEPARTMENT OF THE INTERIOR.—The functions of the Secretary of the Interior under this subtitle may be delegated, except that an order described in section 2928(h) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

#### **SEC. 2930. HUNTING, FISHING, AND TRAPPING.**

All hunting, fishing, and trapping on the lands withdrawn under this subtitle shall be conducted in accordance with section 2671 of title 10, United States Code.

#### **SEC. 2931. HOLD HARMLESS.**

Any party conducting any mining, mineral, or geothermal leasing activity on lands withdrawn and reserved under this subtitle shall indemnify the United States against any costs, fees, damages, or other liabilities (including costs of litigation) incurred by the United States and arising from or relating to such mining activities, including costs of mineral materials disposal, whether arising under the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Solid Waste Disposal Act, or otherwise.

## **DIVISION C—DEPARTMENT OF ENERGY NATIONAL**

### **SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

## **TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

#### **Subtitle A—National Security Programs Authorizations**

- Sec. 3101. Weapons activities.
- Sec. 3102. Environmental restoration and waste management.
- Sec. 3103. Defense fixed asset acquisition/privatization.
- Sec. 3104. Other defense activities.
- Sec. 3105. Defense nuclear waste disposal.

#### **Subtitle B—Recurring General Provisions**

- Sec. 3121. Reprogramming.
- Sec. 3122. Limits on general plant projects.
- Sec. 3123. Limits on construction projects.

- Sec. 3124. Fund transfer authority.
- Sec. 3125. Authority for conceptual and construction design.
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- Sec. 3127. Funds available for all national security programs of the Department of Energy.
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#### **Subtitle C—Program Authorizations, Restrictions, and Limitations**

- Sec. 3131. Stockpile stewardship program.
- Sec. 3132. Manufacturing infrastructure for nuclear weapons stockpile.
- Sec. 3133. Tritium production.
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- Sec. 3136. Limitation on use of funds for certain research and development purposes.
- Sec. 3137. Prohibition on funding nuclear weapons activities with People's Republic of China.
- Sec. 3138. International cooperative stockpile stewardship programs.
- Sec. 3139. Temporary authority relating to transfers of defense environmental management funds.
- Sec. 3140. Management structure for nuclear weapons production facilities and nuclear weapons laboratories.
- Sec. 3141. Accelerated schedule for isolating high-level nuclear waste at the defense waste processing facility, Savannah River Site.
- Sec. 3142. Processing and treatment of high-level nuclear waste and spent nuclear fuel rods.
- Sec. 3143. Projects to accelerate closure activities at defense nuclear facilities.
- Sec. 3144. Payment of costs of operation and maintenance of infrastructure at Nevada Test Site.

#### **Subtitle D—Other Matters**

- Sec. 3151. Report on plutonium pit production and remanufacturing plans.
- Sec. 3152. Amendments relating to baseline environmental management reports.
- Sec. 3153. Requirement to develop future use plans for environmental management program.
- Sec. 3154. Report on Department of Energy liability at Department superfund sites.
- Sec. 3155. Requirement for annual five-year budget for the national security programs of the Department of Energy.
- Sec. 3156. Requirements for Department of Energy weapons activities budgets for fiscal years after fiscal year 1997.
- Sec. 3157. Repeal of requirement relating to accounting procedures for Department of Energy funds.
- Sec. 3158. Update of report on nuclear test readiness postures.
- Sec. 3159. Reports on critical difficulties at nuclear weapons laboratories and nuclear weapons production plants.
- Sec. 3160. Extension of applicability of notice-and-wait requirement regarding proposed cooperation agreements.
- Sec. 3161. Sense of Senate relating to redesignation of defense environmental restoration and waste management program.
- Sec. 3162. Commission on maintaining United States nuclear weapons expertise.
- Sec. 3163. Sense of Congress regarding reliability and safety of remaining nuclear forces.
- Sec. 3164. Study on worker protection at the Mound facility.
- Sec. 3165. Fiscal year 1998 funding for Greenville Road Improvement Project, Livermore, California.
- Sec. 3166. Fellowship program for development of skills critical to Department of Energy nuclear weapons complex.

#### **Subtitle E—Defense Nuclear Environmental Cleanup and Management**

- Sec. 3171. Purpose.
- Sec. 3172. Applicability.
- Sec. 3173. Site manager.
- Sec. 3174. Department of Energy orders.
- Sec. 3175. Deployment of technology for remediation of defense nuclear waste.
- Sec. 3176. Performance-based contracting.
- Sec. 3177. Designation of covered facilities as environmental cleanup demonstration areas.
- Sec. 3178. Definitions.
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**Subtitle F—Waste Isolation Pilot Plant Land Withdrawal Act Amendments**

- Sec. 3181. Short title.
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- Sec. 3183. Management plan.
- Sec. 3184. Repeal of test phase and retrieval plans.
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- Sec. 3187. Environmental Protection Agency disposal regulations.
- Sec. 3188. Compliance with environmental laws and regulations.
- Sec. 3189. Sense of Congress on commencement of emplacement of transuranic waste.
- Sec. 3190. Decommissioning of WIPP.
- Sec. 3191. Authorizations for economic assistance and miscellaneous payments.

## **Subtitle A—National Security Programs Authorizations**

**SEC. 3101. WEAPONS ACTIVITIES.**

(a) STOCKPILE STEWARDSHIP.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of \$1,661,767,000, to be allocated as follows:

(1) For core stockpile stewardship, \$1,235,907,000, to be allocated as follows:

(A) For operation and maintenance, \$1,147,570,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$88,337,000, to be allocated as follows:

Project 96-D-102, stockpile stewardship facilities revitalization, Phase VI, various locations, \$19,250,000.

Project 96-D-103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, \$15,100,000.

Project 96-D-104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, \$14,100,000.

Project 96-D-105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, \$17,100,000.

Project 95-D-102, Chemical and Metallurgy Research Building upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, \$15,000,000.

Project 94-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, \$7,787,000.

(2) For inertial fusion, \$366,460,000, to be allocated as follows:

(A) For operation and maintenance, \$234,560,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), \$131,900,000 to be allocated as follows:

Project 96-D-111, national ignition facility, location to be determined, \$131,900,000.

(3) For technology transfer and education, \$59,400,000.

(b) STOCKPILE MANAGEMENT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of \$1,962,831,000, to be allocated as follows:

(1) For operation and maintenance, \$1,868,470,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$94,361,000, to be allocated as follows:

Project 97-D-121, consolidated pit packaging system, Pantex Plant, Amarillo, Texas, \$870,000.

Project 97-D-122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, \$4,000,000.

Project 97-D-123, structural upgrades, Kansas City Plant, Kansas City, Missouri, \$1,400,000.

Project 97-D-124, steam plant wastewater treatment facility upgrade, Y-12 Plant, Oak Ridge, Tennessee, \$600,000.

Project 96-D-122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, \$100,000.

Project 96-D-123, retrofit heating, ventilation, and air conditioning and chillers for ozone protection, Y-12 Plant, Oak Ridge, Tennessee, \$7,000,000.

Project 96-D-125, Washington measurements operations facility, Andrews Air Force Base, Camp Springs, Maryland, \$3,825,000.

Project 95-D-122, sanitary sewer upgrade, Y-12 Plant, Oak Ridge, Tennessee, \$10,900,000.

Project 94-D-124, hydrogen fluoride supply system, Y-12 Plant, Oak Ridge, Tennessee, \$4,900,000.

Project 94-D-125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, \$5,200,000.

Project 94-D-127, emergency notification system, Pantex Plant, Amarillo, Texas, \$2,200,000.

Project 93-D-122, life safety upgrades, Y-12 Plant, Oak Ridge, Tennessee, \$7,200,000.

Project 93-D-123, complex-21, various locations, \$14,487,000.

Project 88-D-122, facilities capability assurance program, various locations, \$21,940,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, \$9,739,000.

(c) PROGRAM DIRECTION.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for program direction in carrying out weapons activities necessary for national security programs in the amount of \$313,404,000.

(d) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (c) reduced by \$20,000,000 for use of prior year balances.

**SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.**

(a) **ENVIRONMENTAL RESTORATION.**—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for environmental restoration in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$1,762,194,000, of which \$376,648,000 shall be allocated to the uranium enrichment decontamination and decommissioning fund.

(b) **WASTE MANAGEMENT.**—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$1,578,653,000, to be allocated as follows:

(1) For operation and maintenance, \$1,490,326,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$88,327,000, to be allocated as follows:

Project 97-D-402, tank farm restoration and safe operations, Richland, Washington, \$7,584,000.

Project 96-D-408, waste management upgrades, various locations, \$11,246,000.

Project 95-D-402, install permanent electrical service, Waste Isolation Pilot Plant, Carlsbad, New Mexico, \$752,000.

Project 95-D-405, industrial landfill V and construction/demolition landfill VII, Y-12 Plant, Oak Ridge, Tennessee, \$200,000.

Project 94-D-404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, \$6,345,000.

Project 94-D-407, initial tank retrieval systems, Richland, Washington, \$12,600,000.

Project 93-D-182, replacement of cross-site transfer system, Richland, Washington, \$8,100,000.

Project 93-D-187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, \$20,000,000.

Project 89-D-174, replacement high-level waste evaporator, Savannah River Site, Aiken, South Carolina, \$11,500,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, \$10,000,000.

(c) **NUCLEAR MATERIALS AND FACILITIES STABILIZATION.**—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for nuclear materials and facilities stabilization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$1,291,290,000 to be allocated as follows:

(1) For operation and maintenance, \$1,173,718,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities,

and the continuation of projects authorized in prior years, and land acquisition related thereto), \$117,572,000, to be allocated as follows:

Project 97-D-450, Actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, \$7,900,000.

Project 97-D-451, B-Plant safety class ventilation upgrades, Richland, Washington, \$1,500,000.

Project 97-D-470, environmental monitoring laboratory, Savannah River Site, Aiken, South Carolina, \$2,500,000.

Project 97-D-473, health physics site support facility, Savannah River Site, Aiken, South Carolina, \$2,000,000.

Project 96-D-406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, \$60,672,000.

Project 96-D-461, electrical distribution upgrade, Idaho National Engineering Laboratory, Idaho, \$6,790,000.

Project 96-D-464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, \$10,440,000.

Project 96-D-471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, \$8,541,000.

Project 95-E-600, hazardous materials management and emergency response training center, Richland, Washington, \$7,900,000.

Project 95-D-155, upgrade site road infrastructure, Savannah River Site, South Carolina, \$4,137,000.

Project 95-D-456, security facilities consolidation, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, \$4,645,000.

Project 94-D-401, emergency response facility, Idaho National Engineering Laboratory, Idaho, \$547,000.

(d) PROGRAM DIRECTION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$411,511,000.

(e) TECHNOLOGY DEVELOPMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$303,771,000.

(f) POLICY AND MANAGEMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for policy and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$23,155,000.

(g) ENVIRONMENTAL SCIENCE PROGRAM.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for the environmental science program in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$62,136,000.

(h) ENVIRONMENTAL MANAGEMENT PRIVATIZATION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for environmental management privatization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$185,000,000.

(i) CLOSURE PROJECTS.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for closure projects selected under section 3143 in the amount of \$50,000,000.

(j) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (i) reduced by the sum of—

- (1) \$150,400,000, for use of prior year balances; and
- (2) \$8,000,000, for Savannah River Pension Refund.

#### SEC. 3103. DEFENSE FIXED ASSET ACQUISITION/PRIVATIZATION.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for the defense fixed asset acquisition/privatization program in the amount of \$182,000,000.

#### SEC. 3104. OTHER DEFENSE ACTIVITIES.

(a) IN GENERAL.—Subject to subsection (b), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for other defense activities in carrying out programs necessary for national security in the amount of \$1,590,231,000, to be allocated as follows:

(1) For verification and control technology, \$456,348,000, to be allocated as follows:

(A) For nonproliferation and verification research and development, \$204,919,000.

(B) For arms control, \$216,244,000.

(C) For intelligence, \$35,185,000.

(2) For nuclear safeguards and security, \$47,208,000.

(3) For security investigations, \$22,000,000.

(4) For emergency management, \$16,794,000.

(5) For program direction, \$88,122,000.

(6) For international nuclear safety, \$15,200,000.

(7) For environment, safety, and health, defense, \$63,800,000.

(8) For worker and community transition assistance, \$67,000,000.

(9) For fissile materials disposition, \$93,796,000, to be allocated as follows:

(A) For operation and maintenance, \$76,796,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto):

Project 97-D-140, consolidated special nuclear materials storage facility, site to be determined, \$17,000,000.

(10) For nuclear security/Russian production reactor shutdown, \$6,000,000.

(11) For naval reactors development, \$681,932,000, to be allocated as follows:

(A) For operation and infrastructure, \$649,330,000.

(B) For program direction, \$18,902,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$13,700,000, to be allocated as follows:

Project 97-D-201, advanced test reactor secondary coolant refurbishment, Idaho National Engineering Laboratory, Idaho, \$400,000.

Project 95-D-200, laboratory systems and hot cell upgrades, various locations, \$4,800,000.

Project 95-D-201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, \$500,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, \$8,000,000.

(b) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in paragraphs (1) through (10) of subsection (a) reduced by \$25,500,000 for use of prior year balances.

#### **SEC. 3105. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of \$200,000,000.

## **Subtitle B—Recurring General Provisions**

#### **SEC. 3121. REPROGRAMMING.**

(a) **IN GENERAL.**—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) \$1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) **REPORT.**—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) **LIMITATIONS.**—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

**SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.**

(a) **IN GENERAL.**—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed \$2,000,000.

(b) **REPORT TO CONGRESS.**—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds \$2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

(c) **REPORT ON PERMANENT AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PLANT PROJECTS.**—(1) Not later than February 1, 1997, the Secretary of Energy shall submit to the congressional defense committees a report on the desirability of a permanent authorization of appropriations for the defense general plant projects and civilian general plant projects of the Department of Energy.

(2) If the Secretary determines for purposes of the report under paragraph (1) that a permanent authorization of appropriations is desirable, the report shall include—

(A) recommendations for legislation to provide for a permanent authorization of appropriations, including a formula for adjusting for inflation the amount authorized to be appropriated for the projects to be covered by such authorization of appropriations; and

(B) a description of the actions to be undertaken by the Secretary to control costs with respect to such projects, including any actions that may depend on the size, nature, or scope of the project concerned.

**SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.**

(a) **IN GENERAL.**—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

**SEC. 3124. FUND TRANSFER AUTHORITY.**

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items relating to weapons activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

**SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.**

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project. The Secretary shall submit to Congress a report on each conceptual design completed under this paragraph.

Reports.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds \$3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than \$2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may



carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed \$600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds \$600,000, funds for such design must be specifically authorized by law.

**SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.**

(a) **AUTHORITY.**—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) **LIMITATION.**—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) **SPECIFIC AUTHORITY.**—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

**SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.**

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

**SEC. 3128. AVAILABILITY OF FUNDS.**

When so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

## **Subtitle C—Program Authorizations, Restrictions, and Limitations**

**SEC. 3131. STOCKPILE STEWARDSHIP PROGRAM.**

(a) **PURPOSE.**—The purpose of this section is to provide for the enhanced implementation of the Department of Energy stockpile stewardship and management program, in order to provide greater confidence in the safety and continuing reliability of the nuclear weapons stockpile.

(b) **FUNDING.**—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101, \$85,000,000 shall be available to enhance the Department's stockpile stewardship and management program for activities determined appropriate by the Secretary of Energy, including the following:

(1) Enhanced surveillance of the nuclear weapons stockpile.

(2) Dual revalidation of the warheads in the nuclear weapons stockpile.

(3) Stockpile life extension programs.

(4) Production capability assurance programs for critical non-nuclear components.

(5) Accelerating capability to produce prototype war reserve-quality plutonium pits.

(6) Conducting subcritical tests.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report on the obligations the Secretary has incurred, and plans to incur, during fiscal year 1997 for the funds made available by subsection (b).

#### SEC. 3132. MANUFACTURING INFRASTRUCTURE FOR NUCLEAR WEAPONS STOCKPILE.

(a) GENERAL PROGRAM REQUIREMENTS.—Subsection (a) of section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 620; 42 U.S.C. 2121 note) is amended—

(1) by inserting “(1)” before “The Secretary of Energy”;

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively; and

(3) by adding at the end the following:

“(2) The purpose of the program carried out under paragraph (1) shall also be to develop manufacturing capabilities and capacities necessary to meet the requirements specified in the annual Nuclear Weapons Stockpile Review.”.

(b) REQUIRED CAPABILITIES.—Subsection (b)(3) of such section is amended to read as follows:

“(3) The capabilities of the Savannah River Site relating to tritium recycling and fissile materials components processing and fabrication.”.

(c) PLAN AND REPORT.—Not later than March 1, 1997, the Secretary of Energy shall submit to Congress a report containing a plan for carrying out the program established under section 3137(a) of the National Defense Authorization Act for Fiscal Year 1996, as amended by this section. The report shall set forth the obligations that the Secretary has incurred, and proposes to incur, during fiscal year 1997 in carrying out the program.

(d) FUNDING.—Of the funds authorized to be appropriated pursuant to section 3101, \$90,000,000 shall be available for carrying out the program established under section 3137(a) of the National Defense Authorization Act for Fiscal Year 1996, as so amended.

#### SEC. 3133. TRITIUM PRODUCTION.

(a) ACCELERATION OF TRITIUM PRODUCTION.—(1) The Secretary of Energy shall, during fiscal year 1997, make a final decision on the technologies to be utilized, and the accelerated schedule to be adopted, for tritium production in order to meet the requirements of the Nuclear Weapons Stockpile Memorandum relating to tritium production, including the new tritium production date of 2005 specified in the Nuclear Weapons Stockpile Memorandum.

(2) In making the final decision, the Secretary shall take into account the following:

(A) The requirements for tritium production specified in the Nuclear Weapons Stockpile Memorandum, including, in

particular, the requirements for the “upload hedge” component of the nuclear weapons stockpile.

(B) The ongoing activities of the Department of Energy relating to the evaluation and demonstration of technologies under the accelerator reactor program and the commercial light water reactor program.

(b) REPORT.—(1) Not later than April 15, 1997, the Secretary shall submit to Congress a report that sets forth the final decision of the Secretary under subsection (a)(1). The report shall set forth in detail—

(A) the technologies decided on under that subsection; and

(B) the accelerated schedule for the production of tritium decided on under that subsection.

(2) If the Secretary determines that it is not possible to make the final decision by the date specified in paragraph (1), the Secretary shall submit to Congress on that date a report that explains in detail why the final decision cannot be made by that date.

(c) NEW TRITIUM PRODUCTION FACILITY.—The Secretary shall commence planning and design activities and infrastructure development for a new tritium production facility.

(d) IN-REACTOR TESTS.—The Secretary may perform in-reactor tests of tritium target rods as part of the activities carried out under the commercial light water reactor program.

(e) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101(b)(1), \$160,000,000 shall be available for activities related to tritium production.

South Carolina.

#### **SEC. 3134. MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.**

(a) IN GENERAL.—The Secretary of Energy shall carry out activities at the Savannah River Site, South Carolina, to—

(1) modernize and consolidate the facilities for recycling tritium from weapons; and

(2) provide a modern tritium extraction facility so as to ensure that such facilities have a capacity to recycle tritium from weapons that is adequate to meet the requirements for tritium for weapons specified in the Nuclear Weapons Stockpile Memorandum.

(b) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101, not more than \$9,000,000 shall be available for activities under subsection (a).

#### **SEC. 3135. PRODUCTION OF HIGH EXPLOSIVES.**

No funds appropriated or otherwise made available to the Department of Energy for fiscal year 1997 or any prior fiscal year may be used to move, or prepare to move, the manufacture and fabrication of high explosives and energetic materials for use as components in nuclear weapons systems from the Pantex Plant, Amarillo, Texas, to any other site or facility.

#### **SEC. 3136. LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.**

(a) LIMITATION.—No funds authorized to be appropriated or otherwise made available to the Department of Energy for fiscal year 1997 under section 3101 may be obligated or expended for activities under the Department of Energy Laboratory Directed

Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

(b) **ANNUAL REPORT.**—(1) The Secretary of Energy shall annually submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy. 42 USC 7257b.

(2) Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.

(3) Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

**SEC. 3137. PROHIBITION ON FUNDING NUCLEAR WEAPONS ACTIVITIES WITH PEOPLE'S REPUBLIC OF CHINA.**

(a) **FUNDING PROHIBITION.**—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended for any activity associated with the conduct of cooperative programs relating to nuclear weapons or nuclear weapons technology, including stockpile stewardship, safety, and use control, with the People's Republic of China.

(b) **REPORT.**—(1) The Secretary of Energy shall prepare, in consultation with the Secretary of Defense, a report containing a description of all discussions and activities between the United States and the People's Republic of China regarding nuclear weapons matters that have occurred before the date of the enactment of this Act and that are planned to occur after such date. For each such discussion or activity, the report shall include—

(A) the authority under which the discussion or activity took or will take place;

(B) the subject of the discussion or activity;

(C) participants or likely participants;

(D) the source and amount of funds used or to be used to pay for the discussion or activity; and

(E) a description of the actions taken or to be taken to ensure that no classified information or unclassified controlled information was or will be revealed, and a determination of whether classified information or unclassified controlled information was revealed in previous discussions.

(2) The report shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than January 15, 1997.

**SEC. 3138. INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP PROGRAMS.**

(a) **FUNDING PROHIBITION.**—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) **EXCEPTION.**—Subsection (a) does not apply—

(1) with respect to such activities conducted between the United States and the United Kingdom and between the United States and France; and

(2) to activities carried out under title XV of this Act (relating to cooperative threat reduction with states of the former Soviet Union).

**SEC. 3139. TEMPORARY AUTHORITY RELATING TO TRANSFERS OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.**

(a) **TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.**—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of the office to another such program or project. Any such transfer may be made only once in a fiscal year to or from a program or project, and the amount transferred to or from a program or project may not exceed \$5,000,000 in a fiscal year.

(b) **DETERMINATION.**—A transfer may not be carried out by a manager of a field office pursuant to the authority provided under subsection (a) unless the manager determines that such transfer is necessary to address a risk to health, safety, or the environment or to assure the most efficient use of defense environmental management funds at that field office.

(c) **EXEMPTION FROM REPROGRAMMING REQUIREMENTS.**—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) **NOTIFICATION.**—The Secretary of Energy, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such a transfer occurs.

(e) **LIMITATION.**—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(f) **DEFINITIONS.**—In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, any of the following:

(A) A project listed in subsection (b) or (c) of section 3102 being carried out by the office.

(B) A program referred to in subsection (a), (b), (c), (e), (g), or (h) of section 3102 being carried out by the office.

(C) A project or program not described in subparagraph (A) or (B) that is for environmental restoration or waste management activities necessary for national security programs of the Department of Energy, that is being carried out by the office, and for which defense environmental management funds have been authorized and appropriated before the date of the enactment of this Act.

(2) The term “defense environmental management funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(g) **DURATION OF AUTHORITY.**—The authority provided under subsection (a) to a manager of a field office shall be in effect from the date of the enactment of this Act to September 30, 1997.

(h) **REPORT.**—Not later than September 1, 1997, the Secretary of Energy shall submit to the congressional defense committees a report on the effectiveness of the authority provided under subsection (a) in meeting an objective specified in subsection (b). The report shall include recommendations on whether the duration of the authority, as provided in subsection (g), should be extended.

**SEC. 3140. MANAGEMENT STRUCTURE FOR NUCLEAR WEAPONS PRODUCTION FACILITIES AND NUCLEAR WEAPONS LABORATORIES.** 42 USC 7252 note.

(a) **LIMITATION ON DELEGATION OF AUTHORITY.**—(1) The Secretary of Energy, in carrying out national security programs, may delegate specific management and planning authority over matters relating to site operation of the facilities and laboratories covered by this section only to the Assistant Secretary of Energy for Defense Programs. Such Assistant Secretary may redelegate such authority only to managers of area offices of the Department of Energy located at such facilities and laboratories.

(2) Nothing in this section may be construed as affecting the delegation by the Secretary of Energy of authority relating to reporting, management, and oversight of matters relating to the Department of Energy generally, or safety, environment, and health at such facilities and laboratories.

(b) **REQUIREMENT TO CONSULT WITH AREA OFFICES.**—The Assistant Secretary of Energy for Defense Programs, in exercising any delegated authority to oversee management of matters relating to site operation of a facility or laboratory, shall exercise such authority only after direct consultation with the manager of the area office of the Department of Energy located at the facility or laboratory.

(c) **REQUIREMENT FOR DIRECT COMMUNICATION FROM AREA OFFICES.**—The Secretary of Energy, acting through the Assistant Secretary of Energy for Defense Programs, shall require the head of each area office of the Department of Energy located at each facility and laboratory covered by this section to report on matters relating to site operation other than those matters set forth in subsection (a)(2) directly to the Assistant Secretary of Energy for Defense Programs, without obtaining the approval or concurrence of any other official within the Department of Energy. Reports.

(d) **DEFENSE PROGRAMS REORGANIZATION PLAN AND REPORT.**—(1) The Secretary of Energy shall develop a plan to reorganize the field activities and management of the national security functions of the Department of Energy.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the plan developed under paragraph (1). The report shall specifically identify all significant functions performed by the operations offices relating to any of the facilities and laboratories covered by this section and which of those functions could be performed—

(A) by the area offices of the Department of Energy located at the facilities and laboratories covered by this section; or

(B) by the Assistant Secretary of Energy for Defense Programs.

(3) The report also shall address and make recommendations with respect to other internal streamlining and reorganization initiatives that the Department could pursue with respect to military or national security programs.

Establishment.

(e) **DEFENSE PROGRAMS MANAGEMENT COUNCIL.**—The Secretary of Energy shall establish a council to be known as the “Defense Programs Management Council”. The Council shall advise the Secretary on policy matters, operational concerns, strategic planning, and development of priorities relating to the national security functions of the Department of Energy. The Council shall be composed of the directors of the facilities and laboratories covered by this section and shall report directly to the Assistant Secretary of Energy for Defense Programs.

(f) **COVERED SITE OPERATIONS.**—For purposes of this section, matters relating to site operation of a facility or laboratory include matters relating to personnel, budget, and procurement in national security programs.

Applicability.

(g) **COVERED FACILITIES AND LABORATORIES.**—This section applies to the following facilities and laboratories of the Department of Energy:

- (1) The Kansas City Plant, Kansas City, Missouri.
- (2) The Pantex Plant, Amarillo, Texas.
- (3) The Y-12 Plant, Oak Ridge, Tennessee.
- (4) The Savannah River Site, Aiken, South Carolina.
- (5) Los Alamos National Laboratory, Los Alamos, New Mexico.
- (6) Sandia National Laboratories, Albuquerque, New Mexico.
- (7) Lawrence Livermore National Laboratory, Livermore, California.
- (8) The Nevada Test Site, Nevada.

South Carolina.

**SEC. 3141. ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT THE DEFENSE WASTE PROCESSING FACILITY, SAVANNAH RIVER SITE.**

The Secretary of Energy shall accelerate the schedule for the isolation of high-level nuclear waste in glass canisters at the Defense Waste Processing Facility at the Savannah River Site, South Carolina, if the Secretary determines that the acceleration of such schedule—

- (1) will achieve long-term cost savings to the Federal Government; and
- (2) could accelerate the removal and isolation of high-level nuclear waste from long-term storage tanks at the site.

**SEC. 3142. PROCESSING AND TREATMENT OF HIGH-LEVEL NUCLEAR WASTE AND SPENT NUCLEAR FUEL RODS.**

(a) **IN GENERAL.**—(1) In order to provide for an effective response to requirements for managing the spent nuclear fuel described in paragraph (2), there shall be available to the Secretary of Energy, from amounts authorized to be appropriated pursuant to section 3102(c), the following amounts for the purposes stated:

(A) Not more than \$43,000,000 for the development and implementation of a program to accelerate the receipt, processing (including the H-canyon restart operations), reprocessing, separation, reduction, deactivation, stabilization, isolation, and interim storage of high-level nuclear waste associated with

Department of Energy aluminum clad spent fuel rods, foreign spent fuel rods, and other nuclear materials.

(B) Not more than \$15,000,000 for the development and implementation of a program for the receipt, treatment, preparation, conditioning, interim storage, and final disposition of high-level nuclear waste and spent nuclear fuel (including naval spent nuclear fuel), non-aluminum clad fuel rods, and foreign fuel rods.

(2) The spent nuclear fuel referred to in paragraph (1) is the following:

(A) Spent nuclear fuel that is sent to Department of Energy consolidation sites pursuant to the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement, dated April 1995.

(B) Spent nuclear fuel described in the Interim Management of Nuclear Materials Environmental Impact Statement, dated October 1995.

(C) Other spent nuclear fuel located at the Savannah River Site as of the date of the enactment of this Act.

(3) The amounts made available under paragraph (1) are in addition to other amounts authorized to be appropriated by section 3102(c) for the purposes stated in subparagraphs (A) and (B) of that paragraph.

(b) USE OF FUNDS FOR SETTLEMENT AGREEMENT.—Funds made available pursuant to subsection (a)(1)(B) for the Idaho National Engineering Laboratory shall be considered to be funds made available in partial fulfillment of the terms and obligations set forth in the settlement agreement entered into by the United States with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91-0035-S-EJL, and United States v. Batt, Civil No. 91-0054-S-EJL, in the United States District Court for the District of Idaho and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement. Idaho.

(c) AMENDMENTS TO IMPLEMENTATION PLAN FOR MANAGING SPENT NUCLEAR FUEL AT CERTAIN SITES.—Section 3142(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 622) is amended—

(1) by striking out “April 30, 1996” and inserting in lieu thereof “September 30, 1996”;

(2) by striking out “and” at the end of paragraph (3);

(3) by striking out the period at the end of paragraph

(4) and inserting in lieu thereof “; and”; and

(4) by adding at the end the following new paragraph:

“(5) an assessment of the progress made in implementing the programs.”.

(d) NEAR-TERM PLAN FOR PROCESSING SPENT FUEL RODS AT SAVANNAH RIVER SITE.—(1) Not later than March 15, 1997, the Secretary of Energy shall submit to Congress a plan for a near-term program to process, treat, package, and dispose of spent nuclear fuel rods described in paragraph (2) at the Savannah River Site. The plan shall include cost projections and resource requirements for the program and identify program milestones for the program. South Carolina.



(2) The spent nuclear fuel rods to be included in the program referred to in paragraph (1) are the following:

(A) Spent nuclear fuel rods produced at the Savannah River Site.

(B) Spent nuclear fuel rods being sent to the site from other Department of Energy facilities for processing, interim storage, and other treatment.

(C) Foreign spent nuclear fuel rods being sent to the site for processing, interim storage, and other treatment.

(e) **MULTI-YEAR PLAN FOR CLEAN-UP AT SAVANNAH RIVER SITE.**—The Secretary shall develop and implement a multi-year plan for the clean-up of nuclear waste at the Savannah River Site that results, or has resulted, from the following:

(1) Nuclear weapons activities carried out at the site.

(2) The processing, treating, packaging, and disposal of Department of Energy domestic and foreign spent nuclear fuel rods at the site.

(f) **REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.**—The Secretary shall continue operations and maintain a high state of readiness at the H-canyon facility and the F-canyon facility at the Savannah River Site, and shall provide technical staff necessary to operate and so maintain such facilities, pending the development and implementation of the plan referred to in subsection (e).

42 USC 7274n.

**SEC. 3143. PROJECTS TO ACCELERATE CLOSURE ACTIVITIES AT DEFENSE NUCLEAR FACILITIES.**

(a) **IN GENERAL.**—The Secretary of Energy shall select and carry out closure-acceleration projects in accordance with this section.

(b) **PURPOSE.**—The purpose of a closure-acceleration project shall be, within a fixed period of time, to clean up or decommission a Department of Energy defense nuclear facility or portion thereof and to make the facility safe by stabilizing, consolidating, treating, or removing nuclear materials from the facility in order to reduce significantly or eliminate future costs at the facility.

(c) **ELIGIBLE PROJECTS.**—(1) The Secretary of Energy may establish a closure-acceleration project as eligible for selection under subsection (e) by—

(A) developing a plan for the project that meets the criteria under paragraph (2); and

(B) determining that the project will achieve significant long-term cost savings to the Federal Government from the baseline cost estimate made by the Department of Energy for the project.

(2) A plan for a closure-acceleration project under this section shall—

(A) define a clear, delineated scope of work for completion of the project;

(B) demonstrate that, with respect to the site of the proposed project, there is a regulatory agreement between the Department of Energy and other appropriate authorities for the implementation of environmental remediation requirements that would allow for successful completion of the project;

(C) demonstrate, to the maximum extent possible, the support of State and local elected officials and the public for the project;

(D) contain performance-based provisions to be included in the contract for the project, including—

(i) clearly stated and results-oriented performance criteria and measures;

(ii) appropriate incentives for the contractor to meet and exceed the performance criteria effectively and efficiently;

(iii) appropriate criteria and incentives for the contractor to seek and engage subcontractors who may more effectively and efficiently perform either unique and technologically challenging tasks or routine and interchangeable services;

(iv) specific incentives for cost savings;

(v) financial accountability; and

(vi) when appropriate, reduction of fee for failure to meet minimum performance criteria and standards;

(E) demonstrate that the project will use new and innovative cleanup and waste management technology with potential for application to other locations and facilities without requiring the development of new technologies; and

(F) demonstrate that the project can be completed within 10 years from the date of its selection.

(d) PROGRAM ADMINISTRATION.—The Secretary of Energy, acting through the Assistant Secretary for Environmental Management, shall implement a program to carry out the provisions of this section.

(e) SELECTION OF PROJECTS.—(1) The Secretary of Energy shall select closure-acceleration projects to be carried out under this section from among those projects established as eligible under subsection (c) that will result in the most significant long-term cost savings to the Government and the most significant reduction of imminent risk.

(2) For each project selected, the Secretary shall submit to Congress a report setting forth the reasons why the project was selected, based on the criteria under subsection (c)(2) and paragraph (1) of this subsection.

Reports.

(f) MULTIYEAR CONTRACTS.—Notwithstanding section 304B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c(d)), the Secretary of Energy may enter into multi-year contracts to carry out projects selected under this section for up to 10 program years.

(g) FUNDING.—(1) In the budget submitted to Congress under section 1105(a) of title 31, United States Code, each year, the President shall set forth funds for carrying out closure-acceleration projects under this section as a separate item in the environmental restoration and waste management account of the Department of Energy budget.

President.

(2) Funds appropriated for purposes of carrying out projects under this section shall remain available until expended.

(3) If a closure-acceleration project is being carried out at a defense nuclear facility with funds appropriated for such projects, the Secretary of Energy may not reduce the funds otherwise allocated to that defense nuclear facility for environmental restoration and waste management by reason of the funds being used for the project at that facility.

(4) Funds appropriated for purposes of carrying out projects under this section may not be used for an item for which Congress

has specifically denied funds or for a new program or project that has not been authorized by Congress.

(h) **ANNUAL REPORT.**—The Secretary of Energy shall submit each year to Congress a report on the status of each closure-acceleration project being carried out under this section. The report shall include, for each such project, the following:

(1) A description of the funding already provided for the project.

(2) A description of the extent of the cleanup, decommissioning, stabilization, consolidation, treatment, or removal activities completed.

(3) A comparison of the actual results of the project to the original proposal and the actual cost of the project to the originally proposed cost.

(4) A description of the funding needed in future fiscal years for completion of the project.

(i) **DURATION OF PROGRAM.**—No closure-acceleration project selected under this section may be carried out after the expiration of the 15-year period beginning on the date of the enactment of this Act.

(j) **SAVINGS PROVISION.**—Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

#### **SEC. 3144. PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.**

Effective date.

Notwithstanding any other provision of law and effective as of September 30, 1996, the costs associated with operating and maintaining the infrastructure at the Nevada Test Site, Nevada, with respect to any activities initiated at the site after that date by the Department of Defense pursuant to a work-for-others agreement may be paid for from funds authorized to be appropriated to the Department of Energy for activities at the Nevada Test Site.

### **Subtitle D—Other Matters**

#### **SEC. 3151. REPORT ON PLUTONIUM PIT PRODUCTION AND REMANUFACTURING PLANS.**

(a) **REPORT REQUIREMENT.**—The Secretary of Energy shall submit to the congressional defense committees a report on plans for achieving the capability to produce and remanufacture plutonium pits. The report shall include a description of the baseline plan of the Department of Energy for achieving such capability, including the following:

(1) The funding necessary, by fiscal year, to achieve the capability.

(2) The schedule necessary to achieve the capability, including important technical and programmatic milestones.

(3) Siting, capacity for expansion, and other issues included in the baseline plan.

(b) DEADLINE.—The report required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

**SEC. 3152. AMENDMENTS RELATING TO BASELINE ENVIRONMENTAL MANAGEMENT REPORTS.**

Section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 7274k) is amended—

(1) in subsection (b)—

(A) by striking out the first word in the heading and inserting in lieu thereof “BIENNIAL”; and

(B) in paragraph (2)(B), by inserting before “year after 1995” the following: “odd-numbered”; and

(2) in subsection (d)—

(A) by striking out the first word in the heading and inserting in lieu thereof “BIENNIAL”; and

(B) in paragraph (1)(B), by striking out “in each year thereafter” and inserting in lieu thereof “in each odd-numbered year thereafter”; and

(C) in paragraph (2)(A)—

(i) in the matter preceding clause (i), by striking out “fiscal year immediately” and inserting in lieu thereof “two fiscal years immediately”; and

(ii) in clause (ii), by striking out “prior fiscal year” and inserting in lieu thereof “prior fiscal years”.

**SEC. 3153. REQUIREMENT TO DEVELOP FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAM.**

42 USC 7274k  
note.

(a) AUTHORITY TO DEVELOP FUTURE USE PLANS.—The Secretary of Energy may develop future use plans for any defense nuclear facility at which environmental restoration and waste management activities are occurring.

(b) REQUIREMENT TO DEVELOP FUTURE USE PLANS.—The Secretary shall develop a future use plan for each of the following defense nuclear facilities:

(1) Hanford Site, Richland, Washington.

(2) Rocky Flats Plant, Golden, Colorado.

(3) Savannah River Site, Aiken, South Carolina.

(4) Idaho National Engineering Laboratory, Idaho.

(c) CITIZEN ADVISORY BOARD.—(1) At each defense nuclear facility for which the Secretary of Energy intends or is required to develop a future use plan under this section and for which no citizen advisory board has been established, the Secretary shall establish a citizen advisory board.

Establishment.

(2) The Secretary may authorize the manager of a defense nuclear facility for which a future use plan is developed under this section (or, if there is no such manager, an appropriate official of the Department of Energy designated by the Secretary) to pay routine administrative expenses of a citizen advisory board established for that facility. Such payments shall be made from funds available to the Secretary for program direction in carrying out environmental restoration and waste management activities necessary for national security programs.

(d) REQUIREMENT TO CONSULT WITH CITIZEN ADVISORY BOARD.—In developing a future use plan under this section with respect to a defense nuclear facility, the Secretary of Energy shall

consult with a citizen advisory board established pursuant to subsection (c) or a similar advisory board already in existence as of the date of the enactment of this Act for such facility, affected local governments (including any local future use redevelopment authorities), and other appropriate State agencies.

(e) 50-YEAR PLANNING PERIOD.—A future use plan developed under this section shall cover a period of at least 50 years.

(f) DEADLINES.—For each facility listed in subsection (b), the Secretary of Energy shall develop a draft future use plan by October 1, 1997, and a final future use plan by March 15, 1998.

(g) REPORT.—Not later than 60 days after completing development of a final plan for a site listed in subsection (b), the Secretary of Energy shall submit to Congress a report on the plan. The report shall describe the plan and contain such findings and recommendations with respect to the site as the Secretary considers appropriate.

(h) SAVINGS PROVISIONS.—(1) Nothing in this section, or in a future use plan developed under this section with respect to a defense nuclear facility, shall be construed as requiring any modification to a future use plan with respect to a defense nuclear facility that was developed before the date of the enactment of this Act.

(2) Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

#### SEC. 3154. REPORT ON DEPARTMENT OF ENERGY LIABILITY AT DEPARTMENT SUPERFUND SITES.

(a) STUDY.—The Secretary of Energy shall, using funds authorized to be appropriated to the Department of Energy by section 3102, carry out a study to determine the extent and valuation of the injury to, destruction of, or loss of natural resources under section 107(a)(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)(C)) at each site controlled or operated by the Department that is or is anticipated to become subject to the provisions of that Act.

(b) CONDUCT OF STUDY.—(1) The Secretary shall carry out the study using personnel of the Department or by contract with an appropriate private entity.

(2) In determining the extent and valuation of the injury to, destruction of, or loss of natural resources for purposes of the study, the Secretary shall—

(A) treat the Department as a private person liable for response, removal, and remediation costs and damages under section 107(a)(4) of that Act (42 U.S.C. 9607(a)(4)) and subject to an action for damages by public trustees of natural resources under section 107(f) of that Act (42 U.S.C. 9607(f)) or by any other person pursuant to section 107(e) or 113(f) of that Act (42 U.S.C. 9607(e) and 9613(f)); and

(B) determine the value of natural resource damages associated with each site in accordance with all regulations promulgated under section 301(c) of that Act (42 U.S.C. 9651(c)).

(c) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report on the study carried out under subsection (a) to the following committees:

(1) The Committees on Environment and Public Works, Armed Services, and Energy and Natural Resources of the Senate.

(2) The Committees on Commerce, National Security, Transportation and Infrastructure, and Resources of the House of Representatives.

**SEC. 3155. REQUIREMENT FOR ANNUAL FIVE-YEAR BUDGET FOR THE NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.** 42 USC 7271b.

(a) **REQUIREMENT.**—The Secretary of Energy shall prepare each year a budget for the national security programs of the Department of Energy for the five-year period beginning in the year the budget is prepared. Each budget shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs during the five-year period covered by the budget and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) **SUBMITTAL.**—The Secretary shall submit each year to the congressional defense committees the budget required under subsection (a) in that year at the same time as the President submits to Congress the budget for the coming fiscal year pursuant to such section 1105.

**SEC. 3156. REQUIREMENTS FOR DEPARTMENT OF ENERGY WEAPONS ACTIVITIES BUDGETS FOR FISCAL YEARS AFTER FISCAL YEAR 1997.** 42 USC 7271c.

(a) **IN GENERAL.**—The weapons activities budget of the Department of Energy for any fiscal year after fiscal year 1997 shall—

(1) set forth with respect to each of the activities under the budget (including stockpile stewardship, stockpile management, and program direction) the funding requested to carry out each project or activity that is necessary to meet the requirements of the Nuclear Weapons Stockpile Memorandum; and

(2) identify specific infrastructure requirements arising from the Nuclear Posture Review, the Nuclear Weapons Stockpile Memorandum, and the programmatic and technical requirements associated with the review and memorandum.

(b) **REQUIRED DETAIL.**—The Secretary of Energy shall include in the materials that the Secretary submits to Congress in support of the budget for any fiscal year after fiscal year 1997 that is submitted by the President pursuant to section 1105 of title 31, United States Code, the following:

(1) A long-term program plan, and a near-term program plan, for the certification and stewardship of the nuclear weapons stockpile.

(2) An assessment of the effects of the plans referred to in paragraph (1) on each nuclear weapons laboratory and each nuclear weapons production plant.

(c) **DEFINITIONS.**—In this section:

(1) The term “Nuclear Posture Review” means the Department of Defense Nuclear Posture Review as contained in the report of the Secretary of Defense to the President and Congress dated February 19, 1995, or in subsequent such reports.

(2) The term “nuclear weapons laboratory” means the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(3) The term “nuclear weapons production plant” means the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y-12 Plant, Oak Ridge, Tennessee.

**SEC. 3157. REPEAL OF REQUIREMENT RELATING TO ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.**

Section 3151 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 3089) is repealed.

**SEC. 3158. UPDATE OF REPORT ON NUCLEAR TEST READINESS POSTURES.**

Not later than June 1, 1997, the Secretary of Energy shall submit to Congress a report which updates the report submitted by the Secretary under section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 623). The updated report shall include the matters specified under such section, current as of the date of the updated report.

42 USC 7274o.

**SEC. 3159. REPORTS ON CRITICAL DIFFICULTIES AT NUCLEAR WEAPONS LABORATORIES AND NUCLEAR WEAPONS PRODUCTION PLANTS.**

(a) **REPORTS BY HEADS OF LABORATORIES AND PLANTS.**—In the event of a difficulty at a nuclear weapons laboratory or a nuclear weapons production plant that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or plant, as the case may be, shall submit to the Assistant Secretary of Energy for Defense Programs a report on the difficulty. The head of the laboratory or plant shall submit the report as soon as practicable after discovery of the difficulty.

(b) **TRANSMITTAL BY ASSISTANT SECRETARY.**—As soon as practicable after receipt of a report under subsection (a), the Assistant Secretary shall transmit the report (together with the comments of the Assistant Secretary) to the congressional defense committees and to the Secretary of Energy and the Secretary of Defense.

(c) **REPORTS BY NUCLEAR WEAPONS COUNCIL.**—Section 179 of title 10, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

“(e) In addition to the responsibilities set forth in subsection (d), the Council shall also submit to Congress a report on any analysis conducted by the Council with respect to difficulties at nuclear weapons laboratories or nuclear weapons production plants

that have significant bearing on confidence in the safety or reliability of nuclear weapons or nuclear weapon types.”.

(d) DEFINITIONS.—In this section:

(1) The term “nuclear weapons laboratory” means the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(2) The term “nuclear weapons production plant” means the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y-12 Plant, Oak Ridge, Tennessee.

**SEC. 3160. EXTENSION OF APPLICABILITY OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.**

Section 3155(b) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 2153 note) is amended by striking out “October 1, 1996” and inserting in lieu thereof “October 1, 1997”.

**SEC. 3161. SENSE OF SENATE RELATING TO REDESIGNATION OF DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM.**

(a) SENSE OF SENATE.—It is the sense of the Senate that the program of the Department of Energy known as the Defense Environmental Restoration and Waste Management Program, and also known as the Environmental Management Program, be redesignated as the Defense Nuclear Waste Management Program of the Department of Energy.

(b) REPORT ON REDESIGNATION.—Not later than January 31, 1997, the Secretary of Energy shall submit to the congressional defense committees a report on the costs and other difficulties, if any, associated with the following:

(1) The redesignation of the program known as the Defense Environmental Restoration and Waste Management Program, and also known as the Environmental Management Program, as the Defense Nuclear Waste Management Program of the Department of Energy.

(2) The redesignation of the Defense Environmental Restoration and Waste Management Account as the Defense Nuclear Waste Management Account.

**SEC. 3162. COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE.**

42 USC 2121  
note.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the “Commission on Maintaining United States Nuclear Weapons Expertise” (in this section referred to as the “Commission”).

(b) ORGANIZATIONAL MATTERS.—(1)(A) The Commission shall be composed of eight members appointed from among individuals in the public and private sectors who have significant experience in matters relating to nuclear weapons, as follows:

(i) Two shall be appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate).



(ii) One shall be appointed by the minority leader of the Senate (in consultation with the majority leader of the Senate).

(iii) Two shall be appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives).

(iv) One shall be appointed by the minority leader of the House of Representatives (in consultation with the Speaker of the House of Representatives).

(v) Two shall be appointed by the Secretary of Energy.

(B) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) The chairman of the Commission shall be designated from among the members of the Commission appointed under subparagraph (A) by the majority leader of the Senate, in consultation with the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

Deadline.

(D) Members shall be appointed not later than 60 days after the date of the enactment of this Act.

Procedures.

(2) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

(c) DUTIES.—(1) The Commission shall develop a plan for recruiting and retaining within the Department of Energy nuclear weapons complex such scientific, engineering, and technical personnel as the Commission determines appropriate in order to permit the Department to maintain over the long term a safe and reliable nuclear weapons stockpile without engaging in underground testing.

(2) In developing the plan, the Commission shall—

(A) identify actions that the Secretary may undertake to attract qualified scientific, engineering, and technical personnel to the nuclear weapons complex of the Department; and

(B) review and recommend improvements to the on-going efforts of the Department to attract such personnel to the nuclear weapons complex.

(d) REPORT.—Not later than March 15, 1998, the Commission shall submit to the Secretary and to Congress a report containing the plan developed under subsection (c). The report may include recommendations for legislation and administrative action.

(e) COMMISSION PERSONNEL MATTERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or

regular places of business in the performance of services for the Commission.

(3) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(4) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) **TERMINATION.**—The Commission shall terminate 30 days after the date on which the Commission submits its report under subsection (d).

(g) **APPLICABILITY OF FACA.**—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

(h) **FUNDING.**—Of the amounts authorized to be appropriated pursuant to section 3101, not more than \$1,000,000 shall be available for the activities of the Commission under this section. Funds made available to the Commission under this section shall remain available until expended.

**SEC. 3163. SENSE OF CONGRESS REGARDING RELIABILITY AND SAFETY OF REMAINING NUCLEAR FORCES.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The United States is committed to proceeding with a robust, science-based stockpile stewardship program with respect to production of nuclear weapons, and to maintaining nuclear weapons production capabilities and capacities, that are adequate—

(A) to ensure the safety, reliability, and performance of the United States nuclear arsenal; and

(B) to meet such changing national security requirements as may result from international developments or technical problems with nuclear warheads.

(2) The United States is committed to reestablishing and maintaining production facilities for nuclear weapons components at levels that are sufficient—

(A) to satisfy requirements for the safety, reliability, and performance of United States nuclear weapons; and

(B) to demonstrate and sustain production capabilities and capacities.

(3) The United States is committed to maintaining the nuclear weapons laboratories and protecting core nuclear weapons competencies.

(4) The United States is committed to ensuring rapid access to a new production source of tritium within the next decade, as it currently has no meaningful capability to produce tritium, a component that is essential to the performance of modern nuclear weapons.

(5) The United States reserves the right, consistent with United States law, to resume underground nuclear testing to maintain confidence in the United States stockpile of nuclear weapons if warhead design flaws or aging of nuclear weapons

result in problems that a robust stockpile stewardship program cannot solve.

(6) The United States is committed to funding the Nevada Test Site at a level that maintains the ability of the United States to resume underground nuclear testing within one year after a national decision to do so is made.

(7) The United States reserves the right to invoke the supreme national interest of the United States and withdraw from any future arms control agreement to limit underground nuclear testing.

(b) SENSE OF CONGRESS REGARDING PRESIDENTIAL CONSULTATION WITH CONGRESS.—It is the sense of Congress that the President should consult closely with Congress regarding United States policy and practices to ensure confidence in the safety, reliability, and performance of the nuclear stockpile of the United States.

President.

(c) SENSE OF CONGRESS REGARDING NOTIFICATION AND CONSULTATION.—It is the sense of Congress that, upon a determination by the President that a problem with the safety, reliability, or performance of the nuclear stockpile has occurred and that the problem cannot be corrected within the stockpile stewardship program, the President shall—

(1) immediately notify Congress of the problem; and

(2) submit to Congress in a timely manner a plan for corrective action with respect to the problem, including—

(A) a technical description of the activities required under the plan; and

(B) if underground testing of nuclear weapons would assist in such corrective action, an assessment of the advisability of withdrawing from any treaty that prohibits underground testing of nuclear weapons.

Ohio.

**SEC. 3164. STUDY ON WORKER PROTECTION AT THE MOUND FACILITY.**

(a) REPORT.—Not later than March 15, 1997, the Secretary of Energy shall submit to the congressional defense committees a report regarding the status of projects and programs to improve worker safety and health at the Mound Facility in Miamisburg, Ohio.

(b) MATTERS COVERED.—The report shall include the following:

(1) The status of actions completed in fiscal year 1996.

(2) The status of actions completed or proposed to be completed in fiscal years 1997 and 1998.

(3) A description of the fiscal year 1998 budget request for worker safety and health at the Mound Facility.

(4) An accounting of expenditures for worker safety and health at the Mound Facility by fiscal year from fiscal year 1994 through and including fiscal year 1996.

**SEC. 3165. FISCAL YEAR 1998 FUNDING FOR GREENVILLE ROAD IMPROVEMENT PROJECT, LIVERMORE, CALIFORNIA.**

(a) FUNDING.—The Secretary of Energy shall include in the budget for fiscal year 1998 submitted by the Secretary of Energy to the Office of Management and Budget a request for sufficient funds to pay the United States portion of the cost of transportation improvements under the Greenville Road Improvement Project, Livermore, California.

(b) COOPERATION WITH LIVERMORE, CALIFORNIA.—The Secretary shall work with the city of Livermore, California, to deter-

mine the cost of the transportation improvements referred to in subsection (a).

**SEC. 3166. FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.**

(a) **FUNDING.**—Subject to subsection (b), of the funds authorized to be appropriated pursuant to section 3101(b), \$5,000,000 may be used for conducting the fellowship program for the development of skills critical to the ongoing mission of the Department of Energy nuclear weapons complex required by section 3140 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 621; 42 U.S.C. 2121 note).

(b) **NOTICE AND WAIT.**—The Secretary of Energy may not obligate or expend funds under subsection (a) for the fellowship program referred to in that subsection until—

(1) the Secretary submits to Congress a report Reports.  
setting forth—

(A) the actions the Department has taken to implement the fellowship program;

(B) the amount the Secretary proposes to obligate;

(C) the purposes for which such amount will be obligated; and

(2) a period of 21 days elapses from the date of the receipt of the report by Congress.

## Subtitle E—Defense Nuclear Environmental Cleanup and Management

**SEC. 3171. PURPOSE.**

The purpose of this subtitle is to provide for the expedited environmental restoration and waste management of defense nuclear facilities through the use of cost-effective management mechanisms and innovative technologies.

42 USC 7274k  
note.

**SEC. 3172. APPLICABILITY.**

(a) **IN GENERAL.**—The provisions of this subtitle shall apply to the following defense nuclear facilities:

(1) Any defense nuclear facility for which the fiscal year 1996 environmental management budget was \$350,000,000 or more.

(2) Any other defense nuclear facility if—

(A) the chief executive officer of the State in which the facility is located submits to the Secretary a request that the facility be covered by the provisions of this subtitle; and

(B) the Secretary approves the request.

(b) **LIMITATION.**—The Secretary may not approve a request under subsection (a)(2) until 60 days after the date on which the Secretary notifies Congress of the Secretary's receipt of the request.

42 USC 7274k  
note.

Notification.

**SEC. 3173. SITE MANAGER.**

(a) **APPOINTMENT.**—(1) Subject to paragraph (2), the Secretary shall expeditiously appoint a Site Manager for each defense nuclear facility (in this subtitle referred to as the "Site Manager").

42 USC 7274k  
note.

(2) In the case of a defense nuclear facility at which another program, in addition to environmental management operations, is carried out, and such other program is subject to management by a site manager, field office manager, or operations office manager, the Secretary shall appoint such manager to be the Site Manager for such facility for purposes of this subtitle.

(b) **AUTHORITY.**—(1) In addition to other authorities provided for in this Act, the Secretary may delegate to the Site Manager of a defense nuclear facility authority to oversee and direct environmental management operations at the facility, including the authority to—

(A) enter into and modify contractual agreements to enhance environmental restoration and waste management at the facility;

(B) request that the Department headquarters submit to Congress a reprogramming package shifting funds among accounts in order to facilitate the most efficient and timely environmental restoration and waste management of the facility, and, in the event that the Department headquarters does not act upon the request within 60 days, submit such request to the appropriate congressional committees for review;

(C) subject to paragraph (2), negotiate amendments to environmental agreements for the Department;

(D) manage Department personnel at the facility;

(E) consider the costs, risk reduction benefits, and other benefits for the purposes of ensuring protection of human health and the environment or safety, with respect to any environmental remediation activity the cost of which exceeds \$25,000,000; and

(F) have assessments prepared for environmental restoration activities (in several documents or a single document, as determined by the Site Manager).

(2) In using the authority described in paragraph (1)(C), a Site Manager may not negotiate an amendment that is expected to result in additional life cycle costs to the Department without the approval of the Secretary.

(3) In using any authority described in paragraph (1), a Site Manager of a facility shall consult with the State where the facility is located and the advisory board for the facility.

(4) The delegation of any authority pursuant to this subsection shall not be construed as restricting the Secretary's authority to delegate other authorities as necessary.

(c) **INFORMATION TO SECRETARY.**—The Site Manager of a defense nuclear facility shall regularly inform the Secretary, Congress, and the advisory board for the facility of the progress made by the Site Manager to achieve the expedited environmental restoration and waste management of the facility.

42 USC 7274k  
note.

#### **SEC. 3174. DEPARTMENT OF ENERGY ORDERS.**

An order imposed after the date of the enactment of this Act relating to the execution of environmental restoration, waste management, or technology development activities at a defense nuclear facility under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) may be imposed by the Secretary at the defense nuclear facility only if the Secretary finds that the order is necessary for the protection of human health and the environment or safety,

the fulfillment of current legal requirements, or the conduct of critical administrative functions.

**SEC. 3175. DEPLOYMENT OF TECHNOLOGY FOR REMEDIATION OF DEFENSE NUCLEAR WASTE.**

42 USC 7274k  
note.

(a) **IN GENERAL.**—The Site Manager of each defense nuclear facility shall promote the deployment of innovative environmental technologies for remediation of defense nuclear waste at the facility.

(b) **CRITERIA.**—To carry out subsection (a), the Site Manager of a defense nuclear facility shall establish a program at the facility for the testing and deployment of innovative environmental technologies for the remediation of defense nuclear waste at the facility. In establishing such a program, the Site Manager may—

(1) establish a simplified, standardized, and timely process for the testing, verification, certification, and deployment of environmental technologies;

(2) solicit applications to test and deploy environmental technologies suitable for environmental restoration and waste management activities at the facility, including prevention, control, characterization, treatment, and remediation of contamination;

(3) consult and cooperate with the heads of existing programs at the facility for the verification and certification of environmental technologies at the facility;

(4) pay the costs of the demonstration of such technologies;

(5) enter into contracts and other agreements with other public and private entities to deploy environmental technologies at the facility; and

(6) include incentives, such as product performance specifications, in contracts to encourage the implementation of innovative environmental technologies.

(c) **FOLLOW-ON CONTRACTS.**—(1) If the Secretary and a person demonstrating a technology under the program enter into a contract for remediation of nuclear waste at a defense nuclear facility covered by this subtitle, or at any other Department facility, as a follow-on to the demonstration of the technology, the Secretary shall ensure that the contract provides for the Secretary to recoup from the contractor the costs incurred by the Secretary pursuant to subsection (b)(6) for the demonstration.

(2) No contract between the Department and a contractor for the demonstration of technology under subsection (b) may provide for reimbursement of the costs of the contractor on a cost plus fee basis.

(d) **SAFE HARBORS.**—In the case of an environmental technology tested, verified, certified, and deployed at a defense nuclear facility under a program established under subsection (b), the Site Manager of another defense nuclear facility may request the Secretary to waive or limit contractual or Department regulatory requirements that would otherwise apply in implementing the same environmental technology at such other facility.

**SEC. 3176. PERFORMANCE-BASED CONTRACTING.**

42 USC 7274k  
note.

(a) **PROGRAM.**—The Secretary shall develop and implement a program for performance-based contracting for contracts entered into for environmental remediation at defense nuclear facilities. The program shall ensure that, to the maximum extent practicable and appropriate, such contracts include the following:

(1) Clearly stated and results oriented performance criteria and measures.

(2) Appropriate incentives for contractors to meet or exceed the performance criteria effectively and efficiently.

(3) Appropriate criteria and incentives for contractors to seek and engage subcontractors who may more effectively and efficiently perform either unique and technologically challenging tasks or routine and interchangeable services.

(4) Specific incentives for cost savings.

(5) Financial accountability.

(6) When appropriate, reduction of fee for failure to meet minimum performance criteria and standards.

(b) **CRITERIA AND MEASURES.**—Performance criteria and measures should take into consideration, at a minimum, the following: managerial control; elimination or reduction of risk to public health and the environment; workplace safety; financial control; goal-oriented work scope; use of innovative and alternative technologies and techniques that result in cleanups being performed less expensively, more quickly, and within quality parameters; and performing within benchmark cost estimates.

(c) **CONSULTATION.**—In implementing this section, the Secretary shall consult with interested parties.

Reports.

(d) **DEADLINE.**—The Secretary shall implement this section not later than October 1, 1997, unless the Secretary submits to Congress before that date a report with a schedule for completion of action under this section.

42 USC 7274k  
note.

#### **SEC. 3177. DESIGNATION OF COVERED FACILITIES AS ENVIRONMENTAL CLEANUP DEMONSTRATION AREAS.**

(a) **DESIGNATION.**—Each defense nuclear facility is hereby designated as an environmental cleanup demonstration area to carry out the purposes of this subtitle, including the utilization and evaluation of new technologies to be used in environmental restoration and remediation at other defense nuclear facilities.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that Federal and State regulatory agencies, members of the communities surrounding any defense nuclear facility, and other affected parties with respect to the facility should continue to—

(1) develop expedited and streamlined processes and systems for cleaning up such facility;

(2) eliminate unnecessary administrative complexity and unnecessary duplication of regulation with respect to the cleanup of such facility;

(3) proceed expeditiously and cost-effectively with environmental restoration and remediation activities at such facility;

(4) consider future land use in selecting environmental cleanup remedies at such facility; and

(5) identify and recommend to Congress changes in law needed to expedite the cleanup of such facility.

42 USC 7274k  
note.

#### **SEC. 3178. DEFINITIONS.**

In this subtitle:

(1) The term “Secretary” means the Secretary of Energy.

(2) The term “Department” means the Department of Energy.

(3) The term “defense nuclear facility” has the meaning given the term “Department of Energy defense nuclear facility”

in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

**SEC. 3179. TERMINATION.**

This subtitle is repealed effective September 30, 2001.

42 USC 7274k  
note.

**SEC. 3180. REPORT.**

Not later than September 30, 2000, the Secretary shall submit to Congress a report on the effectiveness of this subtitle in expediting environmental restoration and waste management of defense nuclear facilities. The report shall include recommendations on whether this subtitle should remain in effect beyond September 30, 2001.

42 USC 7274k  
note.

## **Subtitle F—Waste Isolation Pilot Plant Land Withdrawal Act Amendments**

Waste Isolation  
Pilot Plant Land  
Withdrawal  
Amendment Act.

**SEC. 3181. SHORT TITLE.**

This subtitle may be cited as the “Waste Isolation Pilot Plant Land Withdrawal Amendment Act”.

**SEC. 3182. DEFINITIONS.**

Section 2 of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102-579; 106 Stat. 4777) is amended—

- (1) by striking paragraphs (18) and (19); and
- (2) by redesignating paragraphs (20), (21), and (22), as paragraphs (18), (19), and (20), respectively.

**SEC. 3183. MANAGEMENT PLAN.**

Section 4(b)(5)(B) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4781) is amended by striking “or with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)”.

**SEC. 3184. REPEAL OF TEST PHASE AND RETRIEVAL PLANS.**

(a) **REPEAL.**—Section 5 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4782) is repealed.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of such Act (106 Stat. 4777) is amended by striking out the item relating to section 5.

**SEC. 3185. TEST PHASE ACTIVITIES.**

Section 6 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4783) is amended—

- (1) by repealing subsections (a) and (b);
- (2) by repealing paragraph (1) of subsection (c);
- (3) by redesignating subsection (c) as subsection (a) and in that subsection—
  - (A) by repealing subparagraph (A) of paragraph (2);
  - (B) by striking the subsection heading and the matter immediately following the subsection heading and inserting “STUDY.—The following study shall be conducted.”;
  - (C) by striking “(2) REMOTE-HANDLED WASTE.—”;
  - (D) by striking “(B) STUDY.—”;
  - (E) by redesignating clauses (i), (ii), and (iii) as paragraphs (1), (2), and (3), respectively; and
  - (F) by realigning the margins of such clauses to be margins of paragraphs;



(4) in subsection (d), by striking “, during the test phase, a biennial” and inserting “a” and by striking “, consisting of a documented analysis of” and inserting “as necessary to demonstrate”; and

(5) by redesignating subsection (d) as subsection (b).

#### SEC. 3186. DISPOSAL OPERATIONS.

Subsection (b) of section 7 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4785) is amended to read as follows:

“(b) REQUIREMENTS FOR COMMENCEMENT OF DISPOSAL OPERATIONS.—The Secretary may commence emplacement of transuranic waste underground for disposal at WIPP only upon completion of—

“(1) the Administrator’s certification under section 8(d)(1) that the WIPP facility will comply with the final disposal regulations;

“(2) the acquisition by the Secretary (whether by purchase, condemnation, or otherwise) of Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C, unless the Administrator determines under section 4(b)(5) that such acquisition is not required; and

“(3) the 30-day period beginning on the date on which the Secretary notifies Congress that the requirements of section 9(a)(1) have been met.”.

Notification.

#### SEC. 3187. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) SECTION 8(d)(1).—Section 8(d)(1) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4786) is amended—

(1) by amending subparagraph (A) to read as follows:

“(A) APPLICATION FOR COMPLIANCE.—Within 30 days after the date of the enactment of the Waste Isolation Pilot Plant Land Withdrawal Amendment Act, the Secretary shall provide to Congress a schedule for the incremental submission of chapters of the application to the Administrator beginning no later than 30 days after the date of the submittal of the schedule. The Administrator shall review the submitted chapters and provide requests for additional information from the Secretary as needed for completeness within 45 days of the receipt of each chapter. The Administrator shall notify Congress of such requests. The schedule shall call for the Secretary to submit all chapters to the Administrator no later than October 31, 1996. The Administrator may at any time request additional information from the Secretary as needed to certify, pursuant to subparagraph (B), whether the WIPP facility will comply with the final disposal regulations.”; and

Notification.

(2) in subparagraph (D), by striking “after the application is” and inserting “after the full application has been”.

(b) SECTION 8(d) (2) and (3).—Section 8(d) of such Act is amended by striking paragraphs (2) and (3), by striking “(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—” and by redesignating subparagraphs (A), (B), (C), and (D) of paragraph (1) as paragraphs (1), (2), (3), and (4), respectively.

(c) SECTION 8(g).—Section 8(g) of such Act is amended to read as follows:

“(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary shall use both engineered and natural barriers and any other measures (including waste form modifications) to the extent necessary at WIPP to comply with the final disposal regulations.”.

**SEC. 3188. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.**

(a) SECTION 9(a)(1).—Section 9(a)(1) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4788) is amended by adding after and below subparagraph (H) the following: “With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from treatment standards promulgated pursuant to section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)) and shall not be subject to the land disposal prohibitions in section 3004(d), (e), (f), and (g) of the Solid Waste Disposal Act.”.

(b) SECTION 9(b).—Subsection (b) of section 9 of such Act is repealed.

(c) SECTION 9(c)(2).—Subsection (c)(2) of section 9 of such Act is repealed.

(d) SECTION 14.—Section 14 of such Act (106 Stat. 4791) is amended—

(1) in subsection (a), by striking “No provision” and inserting “Except for the exemption from the land disposal restrictions described in section 9(a)(1), no provision”; and

(2) in subsection (b)(2), by striking “including all terms and conditions of the No-Migration Determination” and inserting “except that the transuranic mixed waste designated by the Secretary for disposal at WIPP is exempt from the land disposal restrictions described in section 9(a)(1)”.

**SEC. 3189. SENSE OF CONGRESS ON COMMENCEMENT OF EMPLACEMENT OF TRANSURANIC WASTE.**

(a) IN GENERAL.—Section 10 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4789) is amended to read as follows:

**“SEC. 10. SENSE OF CONGRESS ON COMMENCEMENT OF EMPLACEMENT OF TRANSURANIC WASTE.**

“It is the sense of Congress that the Secretary should complete all actions required under section 7(b) to commence emplacement of transuranic waste underground for disposal at WIPP not later than November 30, 1997, provided that before that date all applicable health and safety standards have been met and all applicable laws have been complied with.”.

(b) CLERICAL AMENDMENT.—The item relating to section 10 in the table of contents in section 1 is amended to read as follows:

“Sec. 10. Sense of Congress on commencement of emplacement of transuranic waste.”.

**SEC. 3190. DECOMMISSIONING OF WIPP.**

Section 13 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4791) is amended—

(1) by striking subsection (a); and

(2) by striking “(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the” and inserting “The”.

**SEC. 3191. AUTHORIZATIONS FOR ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.**

(a) **AUTHORIZATION AMENDMENT.**—Section 15(a) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4791) is amended—

(1) in the subsection caption, by striking “15-YEAR” and inserting “14-YEAR”; and

(2) by striking “15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated” and inserting “14 fiscal years beginning with fiscal year 1998”.

(b) **REQUIREMENT FOR SEPARATE AUTHORIZATIONS.**—Such section 15(a) is further amended by adding at the end the following: “The authorization of appropriations for funds for payments to the State under the preceding sentence shall be separate from any authorization of appropriations of funds for WIPP.”

(c) **FISCAL YEAR 1997 FUNDING.**—Of the amount authorized to be appropriated for the Department of Energy by section 3102(b), \$20,000,000 shall be available for the purpose of a payment by the Secretary of Energy to the State of New Mexico for road improvements in connection with the Waste Isolation Pilot Plant.

## **TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

Sec. 3201. Authorization.

**SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 1997, \$17,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

## **TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

**Subtitle A—Authorization of Disposals and Use of Funds**

Sec. 3301. Definitions.

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Disposal of certain materials in National Defense Stockpile.

**Subtitle B—Programmatic Change**

Sec. 3311. Biennial report on stockpile requirements.

Sec. 3312. Notification requirements.

Sec. 3313. Importation of strategic and critical materials.

## **Subtitle A—Authorization of Disposals and Use of Funds**

50 USC 98d note. **SEC. 3301. DEFINITIONS.**

In this title:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

#### SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 1997, the National Defense Stockpile Manager may obligate up to \$60,000,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

#### SEC. 3303. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

50 USC 98d note.

(a) DISPOSAL REQUIRED.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

President.

(1) \$81,000,000 during fiscal year 1997; and

(2) \$612,000,000 during the ten-fiscal year period ending September 30, 2006.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

**Authorized Stockpile Disposals**

Material for disposal	Quantity
Aluminum .....	62,881 short tons
Cobalt .....	26,000,000 pounds contained
Columbium Ferro .....	930,911 pounds con- tained
Germanium Metal .....	40,000 kilograms
Indium .....	35,000 troy ounces
Palladium .....	15,000 troy ounces
Platinum .....	10,000 troy ounces
Rubber, Natural .....	125,138 long tons
Tantalum, Carbide Powder .....	6,000 pounds con- tained
Tantalum, Minerals .....	750,000 pounds con- tained

**Authorized Stockpile Disposals—Continued**

<b>Material for disposal</b>	<b>Quantity</b>
Tantalum, Oxide .....	40,000 pounds contained

(c) **MINIMIZATION OF DISRUPTION AND LOSS.**—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) **TREATMENT OF RECEIPTS.**—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be—

(1) deposited into the general fund of the Treasury; and

(2) to the extent necessary, used to offset the revenues that will be lost as a result of execution of the amendments made by section 4303(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 658).

(e) **QUALIFYING OFFSETTING LEGISLATION.**—This section is specifically enacted as qualifying offsetting legislation for the purpose of offsetting fully the estimated revenues lost as a result of the amendments made by subsection (a) of section 4303 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 658), and as such is deemed to satisfy the conditions in subsection (b) of such section.

(f) **RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.**—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

**Subtitle B—Programmatic Change****SEC. 3311. BIENNIAL REPORT ON STOCKPILE REQUIREMENTS.**

(a) **NATIONAL EMERGENCY PLANNING ASSUMPTIONS.**—Section 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-5) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsection (b) and inserting in lieu thereof the following new subsection:

“(b) Each report under this section shall set forth the national emergency planning assumptions used by the Secretary in making the Secretary’s recommendations under subsection (a)(1) with respect to stockpile requirements. The Secretary shall base the national emergency planning assumptions on a military conflict scenario consistent with the scenario used by the Secretary in budgeting and defense planning purposes. The assumptions to be set forth include assumptions relating to each of the following:

“(1) The length and intensity of the assumed military conflict.

“(2) The military force structure to be mobilized.

“(3) The losses anticipated from enemy action.

“(4) The military, industrial, and essential civilian requirements to support the national emergency.

“(5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

“(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

“(7) Civilian austerity measures required during the mobilization period and military conflict.

“(c) The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military conflict scenario required under subsection (b), all munitions, combat support items, and weapons systems that would be required after such a military conflict.

“(d) The Secretary shall also include in each report under this section an examination of the effect that alternative mobilization periods under the military conflict scenario required under subsection (b), as well as a range of other military conflict scenarios addressing potentially more serious threats to national security, would have on the Secretary’s recommendations under subsection (a)(1) with respect to stockpile requirements.”.

(b) CONFORMING AMENDMENT.—Section 2 of such Act (50 U.S.C. 98a) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

“(c) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996. 50 USC 98a note.

#### SEC. 3312. NOTIFICATION REQUIREMENTS.

(a) PROPOSED CHANGES IN STOCKPILE QUANTITIES.—Section 3(c)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(2)) is amended—

(1) by striking out “effective on or after the 30th legislative day following” and inserting in lieu thereof “after the end of the 45-day period beginning on”; and

(2) by striking out the last sentence.

(b) WAIVER OF ACQUISITION AND DISPOSAL REQUIREMENTS.—Section 6(d)(1) of such Act (50 U.S.C. 98e(d)(1)) is amended by striking out “thirty days” and inserting in lieu thereof “45 days”.

(c) TIME TO BEGIN DISPOSAL.—Section 6(d)(2) of such Act (50 U.S.C. 98e(d)(2)) is amended by striking out “thirty days” and inserting in lieu thereof “45 days”.

#### SEC. 3313. IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS.

Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-4) is amended—

(1) by striking out “as a Communist-dominated country or area”; and

(2) by striking out “such Communist-dominated countries or areas” and inserting in lieu thereof “a country or area listed in such general note”.

## TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

Sec. 3402. Price requirement on sale of certain petroleum during fiscal year 1997.

### SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy \$149,500,000 for fiscal year 1997 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title). Funds appropriated pursuant to such authorization shall remain available until expended.

10 USC 7430  
note.

### SEC. 3402. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1997.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1997, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

## TITLE XXXV—PANAMA CANAL COMMISSION

### Subtitle A—Authorization of Appropriations

Sec. 3501. Short title.

Sec. 3502. Authorization of expenditures.

Sec. 3503. Purchase of vehicles.

Sec. 3504. Expenditures only in accordance with treaties.

### Subtitle B—Amendments to Panama Canal Act of 1979

Sec. 3521. Short title; references.

Sec. 3522. Definitions and recommendation for legislation.

Sec. 3523. Administrator.

Sec. 3524. Deputy Administrator and Chief Engineer.

Sec. 3525. Office of Ombudsman.

Sec. 3526. Appointment and compensation; duties.

Sec. 3527. Applicability of certain benefits.

Sec. 3528. Travel and transportation.

Sec. 3529. Clarification of definition of agency.

Sec. 3530. Panama Canal Employment System; merit and other employment requirements.

Sec. 3531. Employment standards.

Sec. 3532. Repeal of obsolete provision regarding interim application of Canal Zone Merit System.

Sec. 3533. Repeal of provision relating to recruitment and retention remuneration.

Sec. 3534. Benefits based on basic pay.

Sec. 3535. Vesting of general administrative authority of commission.

Sec. 3536. Applicability of certain laws.

Sec. 3537. Repeal of provision relating to transferred or reemployed employees.

Sec. 3538. Administration of special disability benefits.

Sec. 3539. Panama Canal Revolving Fund.

Sec. 3540. Printing.

Sec. 3541. Accounting policies.

Sec. 3542. Interagency services; reimbursements.

Sec. 3543. Postal service.

Sec. 3544. Investigation of accidents or injury giving rise to claim.

Sec. 3545. Operations regulations.

Sec. 3546. Miscellaneous repeals.

Sec. 3547. Exemption from Metric Conversion Act of 1975.

Sec. 3548. Conforming and clerical amendments.  
Sec. 3549. Repeal of Panama Canal Code.

## Subtitle A—Authorization of Appropriations

Panama Canal  
Commission  
Authorization  
Act for Fiscal  
Year 1997.

### SEC. 3501. SHORT TITLE.

This subtitle may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1997".

### SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to use amounts in the Panama Canal Revolving Fund to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1997.

(b) LIMITATIONS.—For fiscal year 1997, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than \$73,000 for reception and representation expenses, of which—

(1) not more than \$18,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than \$10,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than \$45,000 may be used for official reception and representation expenses of the Administrator of the Commission.

### SEC. 3503. PURCHASE OF VEHICLES.

Notwithstanding any other provisions of law, the funds available to the Commission shall be available for the purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.

### SEC. 3504. EXPENDITURES ONLY IN ACCORDANCE WITH TREATIES.

Expenditures authorized under this subtitle may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.



Panama Canal  
Act Amendments  
of 1996.

## Subtitle B—Amendments to Panama Canal Act of 1979

### SEC. 3521. SHORT TITLE; REFERENCES.

22 USC 3601  
note.

(a) **SHORT TITLE.**—This subtitle may be cited as the “Panama Canal Act Amendments of 1996”.

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.).

### SEC. 3522. DEFINITIONS AND RECOMMENDATION FOR LEGISLATION.

Section 3 (22 U.S.C. 3602) is amended—

(1) in subsection (b), by inserting “and” after the semicolon at the end of paragraph (4), by striking the semicolon at the end of paragraph (5) and inserting a period, and striking paragraphs (6) and (7); and

(2) by striking subsection (d).

### SEC. 3523. ADMINISTRATOR.

(a) **IN GENERAL.**—Section 1103 (22 U.S.C. 3613) is amended to read as follows:

#### “ADMINISTRATOR

President.

“SEC. 1103. (a) There shall be an Administrator of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

“(b) The Administrator shall be paid compensation in an amount, established by the Board, not to exceed level III of the Executive Schedule.”.

22 USC 3613  
note.

(b) **SAVINGS PROVISIONS.**—Nothing in this section (or section 3549(3)) shall be considered to affect—

(1) the tenure of the individual serving as Administrator of the Commission on the day before subsection (a) takes effect; or

(2) until modified under section 1103(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving.

### SEC. 3524. DEPUTY ADMINISTRATOR AND CHIEF ENGINEER.

(a) **IN GENERAL.**—Section 1104 (22 U.S.C. 3614) is amended to read as follows:

#### “DEPUTY ADMINISTRATOR

President.

“SEC. 1104. (a) There shall be a Deputy Administrator of the Commission who shall be appointed by the President. The Deputy Administrator shall perform such duties as may be prescribed by the Board.

“(b) The Deputy Administrator shall be paid compensation at a rate of pay, established by the Board, which does not exceed the rate of basic pay in effect for level IV of the Executive Schedule.”.

and, if eligible, shall be paid the overseas recruitment and retention differential provided for in section 1217 of this Act.”

(b) SAVINGS PROVISIONS.—Nothing in this section shall be considered to affect—

22 USC 3614  
note.

(1) the tenure of the individual serving as Deputy Administrator of the Commission on the day before subsection (a) takes effect; or

(2) until modified under section 1104(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving.

#### SEC. 3525. OFFICE OF OMBUDSMAN.

Section 1113 (22 U.S.C. 3623) is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

#### SEC. 3526. APPOINTMENT AND COMPENSATION; DUTIES.

Section 1202 (22 U.S.C. 3642) is amended to read as follows:

##### “APPOINTMENT AND COMPENSATION; DUTIES

“SEC. 1202. (a) In accordance with this chapter, the Commission may appoint, fix the compensation of, and define the authority and duties of officers and employees (other than the Administrator and Deputy Administrator) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

“(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals in the uniformed services, may, if appointed under this section or section 1104 of this Act, serve as officers or employees of the Commission.”

#### SEC. 3527. APPLICABILITY OF CERTAIN BENEFITS.

Section 1209 (22 U.S.C. 3649) is amended to read as follows:

##### “APPLICABILITY OF CERTAIN BENEFITS

“SEC. 1209. Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapters 83 and 84 of such title 5, relating to retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are applicable to Commission employees, except any individual—

“(1) who is not a citizen of the United States;

“(2) whose initial appointment by the Commission occurs after October 1, 1979; and

“(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.”

#### SEC. 3528. TRAVEL AND TRANSPORTATION.

Section 1210 (22 U.S.C. 3650) is amended to read as follows:

##### “TRAVEL AND TRANSPORTATION

“SEC. 1210. (a) Subject to subsections (b) and (c), the Commission may pay travel and transportation expenses for employees in accordance with subchapter II of chapter 57 of title 5, United States Code.

“(b) For an employee to whom section 1206 applies, the Commission may pay travel and transportation expenses associated with vacation leave for the employee and the immediate family of the employee notwithstanding requirements regarding periods of service established by subchapter II of chapter 57 of title 5, United States Code, or the regulations promulgated thereunder.

“(c) For an employee to whom section 1206 does not apply, the Commission may pay travel and transportation expenses associated with vacation leave for the employee and the immediate family of the employee notwithstanding requirements regarding a written agreement concerning the duration of a continuing service obligation established by subchapter II of chapter 57 of title 5, United States Code, or the regulations promulgated thereunder.

“(d)(1) Notwithstanding any other provision of law (except paragraph (2)), the Commission may contract with Panamanian carriers registered under the laws of the Republic of Panama to provide air transportation to officials and employees of the Commission who are citizens of the Republic of Panama.

“(2) Notwithstanding paragraph (1), an official or employee of the Commission referred to in paragraph (1) may elect, for security or other reasons, to travel by an air carrier holding a certificate under section 41102 of title 49, United States Code.”.

#### SEC. 3529. CLARIFICATION OF DEFINITION OF AGENCY.

Subparagraph (B) of section 1211(1) (22 U.S.C. 3651(1)(B)) is amended to read as follows:

“(B) any other Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b) of this Act;”.

#### SEC. 3530. PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS.

(a) IN GENERAL.—Section 1212 (22 U.S.C. 3652) is amended to read as follows:

##### “PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

Establishment.  
Regulations.

“SEC. 1212. (a) The Commission shall establish a Panama Canal Employment System and prescribe the regulations necessary for its administration. The Panama Canal Employment System shall—

“(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

“(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

“(3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service;

“(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service; and

“(5) not be subject to the provisions of title 5, United States Code, unless specifically made applicable by this Act.

“(b)(1) The head of any Executive agency (other than the Commission) and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

“(2) Any Executive agency (other than the Commission) and the Smithsonian Institution, to the extent of any election under paragraph (1), shall conduct its employment and pay practices relating to employees in accordance with the Panama Canal Employment System.

“(3) Notwithstanding any other provision of this Act or the Panama Canal Act Amendments of 1996, this subchapter, as last in effect before the effective date of section 3530 of the Panama Canal Act Amendments of 1996, shall continue to apply to an Executive agency or the Smithsonian Institution to the extent of an election under paragraph (1) by the head of agency or the Institution, respectively.

Applicability.

“(c) The Commission may exclude any employee or position from coverage under any provision of this subchapter, other than the interchange rights extended under subsection (a)(4).”

(b) SAVINGS PROVISIONS.—The Panama Canal Employment System and all elections, rules, regulations, and orders relating thereto, as last in effect before the amendment made by subsection (a) takes effect, shall continue in effect, according to their terms, until modified, terminated, or superseded under section 1212 of the Panama Canal Act of 1979, as amended by subsection (a).

Applicability.  
22 USC 3652  
note.

#### SEC. 3531. EMPLOYMENT STANDARDS.

Section 1213 (22 U.S.C. 3653) is amended in the first sentence by striking “The head of each agency” and inserting “The Commission”.

#### SEC. 3532. REPEAL OF OBSOLETE PROVISION REGARDING INTERIM APPLICATION OF CANAL ZONE MERIT SYSTEM.

Section 1214 (22 U.S.C. 3654) is repealed.

#### SEC. 3533. REPEAL OF PROVISION RELATING TO RECRUITMENT AND RETENTION REMUNERATION.

Section 1217(d) (22 U.S.C. 3657(d)) is repealed.

#### SEC. 3534. BENEFITS BASED ON BASIC PAY.

Section 1218(2) (22 U.S.C. 3658(2)) is amended to read as follows:

“(2) benefits under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, relating to retirement;”.

#### SEC. 3535. VESTING OF GENERAL ADMINISTRATIVE AUTHORITY OF COMMISSION.

Section 1223 (22 U.S.C. 3663) is amended to read as follows:

##### “CENTRAL EXAMINING OFFICE

“SEC. 1223. The Commission shall establish a Central Examining Office. The purpose of the office shall be to implement the provisions of the Panama Canal Treaty of 1977 and related agreements with respect to recruitment, examination, determination of qualification standards, and similar matters relating to employment of the Commission.”.

Establishment.

**SEC. 3536. APPLICABILITY OF CERTAIN LAWS.**

Section 1224 (22 U.S.C. 3664) is amended to read as follows:

“APPLICABILITY OF TITLE 5, UNITED STATES CODE

“SEC. 1224. The following provisions of title 5, United States Code, apply to the Panama Canal Commission:

- “(1) Part I of title 5 (relating to agencies generally).
- “(2) Chapter 21 (relating to employee definitions).
- “(3) Section 2302(b)(8) (relating to whistleblower protection) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.
- “(4) All provisions relating to preference eligibles.
- “(5) Section 5514 (relating to offset from salary).
- “(6) Section 5520a (relating to garnishments).
- “(7) Sections 5531–5535 (relating to dual pay and employment).
- “(8) Subchapter VI of chapter 55 (relating to accumulated and accrued leave).
- “(9) Subchapter IX of chapter 55 (relating to severance and back pay).
- “(10) Chapter 57 (relating to travel, transportation, and subsistence).
- “(11) Chapter 59 (relating to allowances).
- “(12) Chapter 63 (relating to leave for CONUS employees).
- “(13) Section 6323 (relating to military leave; Reserves and National Guardsmen).
- “(14) Chapter 71 (relating to labor relations).
- “(15) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.
- “(16) Chapter 81 (relating to compensation for work injuries).
- “(17) Chapters 83 and 84 (relating to retirement).
- “(18) Chapter 85 (relating to unemployment compensation).
- “(19) Chapter 87 (relating to life insurance).
- “(20) Chapter 89 (relating to health insurance).”

**SEC. 3537. REPEAL OF PROVISION RELATING TO TRANSFERRED OR REEMPLOYED EMPLOYEES.**

Section 1231(a)(3) (22 U.S.C. 3671(a)(3)) is repealed.

**SEC. 3538. ADMINISTRATION OF SPECIAL DISABILITY BENEFITS.**

Section 1245 (22 U.S.C. 3682) is amended by striking so much as precedes subsection (b) and inserting the following:

“ADMINISTRATION OF CERTAIN DISABILITY BENEFITS

“SEC. 1245. (a)(1) The Commission, or any other United States Government agency or private entity acting pursuant to an agreement with the Commission, under the Act entitled ‘An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act’,

approved July 8, 1937 (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease.

"(2) Subject to subsection (b), cash relief under this subsection may not exceed \$1.50 per month for each year of service of the employees so furnished relief, with a maximum of \$45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama."

#### SEC. 3539. PANAMA CANAL REVOLVING FUND.

Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended to read as follows:

##### "PANAMA CANAL REVOLVING FUND

"SEC. 1302. (a) There is established in the Treasury of the United States a revolving fund to be known as 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (b), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for—

Nomenclature.

- "(1) the hire of passenger motor vehicles and aircraft;
- "(2) uniforms or allowances therefor;
- "(3) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;
- "(4) the operation of guide services;
- "(5) a residence for the Administrator;
- "(6) disbursements by the Administrator for employee and community projects;
- "(7) the procurement of expert and consultant services;
- "(8) promotional activities, including the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, film, or other media presentation designed to promote the Panama Canal as a resource of the world shipping industry; and
- "(9) the purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.

"(b)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts (other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 1305) and all other receipts of the Commission. Except as provided in section 1303, no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

“(2) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year, in excess of—

“(A) the amount of revenues deposited in the Panama Canal Revolving Fund and the Panama Canal Commission Dissolution Fund during such fiscal year; plus

“(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unobligated at the beginning of such fiscal year; plus

“(C) the \$100,000,000 borrowing authority provided for in section 1304 of this Act.

Reports.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

“(c) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or such other place and in such manner as the Commission and the Secretary may agree.

“(d)(1) It is the sense of the Congress that the additional costs resulting from the implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs (\$870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of \$205,000,000, which were subtracted and charged to tolls, therefore resulting in net taxpayer cost of approximately \$665,700,000, plus appropriate adjustments for inflation.

“(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.”.

#### SEC. 3540. PRINTING.

Title I is amended in chapter 3 (22 U.S.C. 3711 et seq.) by adding at the end of subchapter I the following new section:

#### “PRINTING

22 USC 3714b.

“SEC. 1306. (a) Section 501 of title 44, United States Code, shall not apply to direct purchase by the Commission for its use of printing, binding, and blank-book work in the Republic of Panama when the Commission determines that such direct purchase is in the best interest of the Government.

“(b) This section shall not affect the Commission’s authority, under chapter 5 of title 44, United States Code, to operate a field printing plant.”.

#### SEC. 3541. ACCOUNTING POLICIES.

(a) SECTION 1311.—Section 1311(a) (22 U.S.C. 3721(a)) is amended by striking out “the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)” in the first sentence and inserting in lieu thereof “chapter 91 of title 31, United States Code,”.

(b) SECTION 1313.—Section 1313 (22 U.S.C. 3723) is amended by striking out “the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)” in subsections (a) and (c) and inserting in lieu thereof “chapter 91 of title 31, United States Code,”.

**SEC. 3542. INTERAGENCY SERVICES; REIMBURSEMENTS.**

Section 1321(e) (22 U.S.C. 3731(e)) is amended by adding at the end the following sentence:

“Notwithstanding the provisions relating to the availability of adequate schools contained in section 5924(4)(A) of title 5, United States Code, the Commission shall by regulation determine the extent to which costs of educational services may be defrayed under this subsection.”.

Regulations.

**SEC. 3543. POSTAL SERVICE.**

Section 1331 (22 U.S.C. 3741) is amended to read as follows:

“POSTAL SERVICE

“SEC. 1331. (a) The Commission shall take possession of and administer the funds of the Canal Zone postal service and shall assume its obligations.

“(b) Effective December 1, 1999, neither the Commission nor the United States Government shall be responsible for the distribution of any accumulated unpaid balances relating to Canal Zone postal-savings deposits, postal-savings certificates, and postal money orders.

Effective date.

“(c) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Armed Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.”.

Records.

**SEC. 3544. INVESTIGATION OF ACCIDENTS OR INJURY GIVING RISE TO CLAIM.**

Section 1417(1) (22 U.S.C. 3777(1)) is amended to read as follows:

“(1) an investigation of the accident or injury giving rise to the claim has been completed, which shall include a hearing by the Board of Local Inspectors of the Commission; and”.

**SEC. 3545. OPERATIONS REGULATIONS.**

Section 1801 (22 U.S.C. 3811) is amended by striking “President” and inserting “Commission”.

**SEC. 3546. MISCELLANEOUS REPEALS.**

(a) REPEALS.—The following provisions are repealed:

(1) Section 1605 (22 U.S.C. 3795), relating to interim toll adjustment.

(2) Section 1701 (22 U.S.C. 3801), relating to the authority of the President to prescribe certain regulations.

(3) Section 1702 (22 U.S.C. 3802), relating to the authority of the Panama Canal Commission to prescribe certain regulations.



(4) Title II (22 U.S.C. 3841-3852), relating to the Treaty transition period.

(5) Chapter 1 of title III (22 U.S.C. 3861), relating to cemeteries.

22 USC 3683. (6) Section 1246, relating to appliances for certain injured employees.

(7) Section 1251, relating to leave for jury or witness service.

22 USC 3711. (8) Section 1301, relating to Canal Zone Government funds.

22 USC 3723. (9) Section 1313(c), relating to audits.

(b) CONFORMING AMENDMENTS.—Section 1313 is further amended by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

**SEC. 3547. EXEMPTION FROM METRIC CONVERSION ACT OF 1975.**

22 USC 3873.

Section 3302 is amended to read as follows:

**“EXEMPTION FROM METRIC CONVERSION ACT OF 1975**

“SEC. 3302. The Commission is exempt from the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.).”.

**SEC. 3548. CONFORMING AND CLERICAL AMENDMENTS.**

(a) TITLE 5 EMPLOYMENT LAW.—Title 5, United States Code, is amended as follows:

(1) Section 3401(1) is amended—

(A) by striking out clause (v); and

(B) by redesignating clauses (vi), (vii), and (viii) as clauses (v), (vi), and (vii), respectively.

(2) Section 5102 is amended—

(A) in subsection (a)(1)—

(i) by striking out clause (vi); and

(ii) by redesignating clauses (vii), (viii), (ix), (x), and (xi) as clauses (vi), (vii), (viii), (ix), and (x), respectively; and

(B) in subsection (c), by striking out paragraph (12).

(3) Subchapter IV of chapter 53 is amended—

(A) in section 5342(a)(1)—

(i) by striking out subparagraph (G); and

(ii) by redesignating subparagraphs (H), (I), (J), (K), and (L) as subparagraphs (G), (H), (I), (J), and (K) respectively;

(B) in section 5343(a)(5), by striking out “the areas and installations in the Republic of Panama” and all that follows through “Panama Canal Act of 1979,”; and

(C) in section 5348—

(i) by striking out subsection (b);

(ii) by redesignating subsection (c) as subsection (b); and

(iii) in subsection (a), by striking out “subsections (b) and (c)” and inserting in lieu thereof “subsection (b)”.

(4) Section 5373 is amended—

(A) by striking out paragraph (1); and

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3) respectively.

(5) Section 5537(c) is amended by striking out “the United States District Court for the District of the Canal Zone, the

District Court of Guam, and the District Court of the Virgin Islands.” and inserting in lieu thereof “the District Court of Guam and the District Court of the Virgin Islands.”.

(6) Section 5541(2)(xii) is amended—

(A) by inserting “or” after “Services Administration,”; and

(B) by striking out “, or a vessel employee of the Panama Canal Commission”;

(7) Section 5924(3) is amended by striking out the last sentence.

(8) Section 6322(a) is amended—

(A) by striking out “Puerto Rico,” and inserting in lieu thereof “Puerto Rico or”; and

(B) by striking out “, or the Republic of Panama”.

(9) Section 7901(f) is amended to read as follows:

“(f) The health programs conducted by the Tennessee Valley Authority are not affected by this section.”.

(b) CROSS REFERENCES IN PANAMA CANAL ACT.—

(1) Section 1211(1)(B) (22 U.S.C. 3651(1)(B)) is amended by striking out “section 1212(B)(2)” and inserting in lieu thereof “section 1212(b)”.

(2) Section 1303 (22 U.S.C. 3713) is amended by striking out “section 1302(c)(1)” both places it appears and inserting in lieu thereof “section 1302(b)(1)”.

(3) Section 1341(f) (22 U.S.C. 3751(f)) is amended by striking out “section 1302(c)” and inserting in lieu thereof “section 1302(b)”.

(c) SECTION HEADINGS.—

(1) The heading of section 3 (22 U.S.C. 3602) is amended to read as follows:

“DEFINITIONS”.

(2) The heading of section 1245 (22 U.S.C. 3682) is amended to read as follows:

“ADMINISTRATION OF CERTAIN DISABILITY BENEFITS”.

(d) TABLE OF CONTENTS.—The table of contents in section 1 is amended as follows:

(1) The items relating to sections 1101, 1102a, 1102b, and 1313 are amended by inserting “Sec.” before the section number.

(2) The item relating to section 3 is amended to read as follows:

“Sec. 3. Definitions.”.

(3) The item relating to section 1104 is amended to read as follows:

“Sec. 1104. Deputy Administrator.”.

(4) The items relating to sections 1209 and 1210 are amended to read as follows:

“Sec. 1209. Applicability of certain benefits.

“Sec. 1210. Travel and transportation.”.

(5) The items relating to sections 1223 and 1224 are amended to read as follows:

“Sec. 1223. Central Examining Office.

“Sec. 1224. Applicability of title 5, United States Code.”.

(6) The item relating to section 1245 is amended to read as follows:

“Sec. 1245. Administration of certain disability benefits.”

(7) The item relating to section 3302 is amended to read as follows:

“Sec. 3302. Exemption from Metric Conversion Act of 1975.”

(8) Such table of contents is further amended by inserting after the item relating to section 1305 the following new item:

“Sec. 1306. Printing.”

(9) Such table of contents is further amended—

(A) by striking out the items relating to sections 1214, 1246, 1251, 1301, 1605, 1701, 1702, 2101, 2201, 2202, 2203, 2204, 2205, 2206, 2301, 2401, 2402, and 3101; and

(B) by striking out the items relating to the heading of title II, the headings of chapters 1, 2, 3, and 4 of such title, and the heading of chapter 1 of title III.

#### SEC. 3549. REPEAL OF PANAMA CANAL CODE.

The Panama Canal Code is repealed.

Approved September 23, 1996.

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#### LEGISLATIVE HISTORY—H.R. 3230 (S. 1745):

HOUSE REPORTS: Nos. 104-563 (Comm. on National Security) and 104-724 (Comm. of Conference).

SENATE REPORTS: Nos. 104-267 (Comm. on Armed Services) and 104-278 (Select Comm. on Intelligence) both accompanying S. 1745.

CONGRESSIONAL RECORD, Vol. 142 (1996):

May 14, 15, considered and passed House.

June 18-20, 24-28, July 10, S. 1745 considered and passed Senate; H.R.

3230, amended, passed in lieu.

Aug. 1, House agreed to conference report.

Sept. 10, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 23, Presidential remarks and statement.

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